

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



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

**Convened January 12, 2015**  
**Adjourned April 10, 2015**

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**Volume 1**

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

**PUBLISHED BY AUTHORITY OF THE**  
**SECRETARY OF STATE**

**LAWRENCE DENNEY**  
Secretary of State  
Boise, Idaho

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CHAPTER 1  
(S.B. No. 1012)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 2015; 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 181, Laws of 2014, and any other appropriation provided for by law, there is hereby appropriated \$555,000 from the Federal Grant Fund to the Division of Vocational Rehabilitation for the Vocational Rehabilitation Program, to be expended for trustee and benefit payments, for the period July 1, 2014, through June 30, 2015.

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 11, 2015

CHAPTER 2  
(S.B. No. 1002)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO IDAHO PUBLIC TELEVISION FOR FISCAL YEAR 2015; 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 184, Laws of 2014, and any other appropriation provided for by law, there is hereby appropriated from the Federal Grant Fund to Idaho Public Television, the following amounts to be expended for the designated expense classes, for the period July 1, 2014, through June 30, 2015:

FOR:

Personnel Costs	\$2,500
Operating Expenditures	4,200
Capital Outlay	<u>176,800</u>
TOTAL	\$183,500

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 11, 2015

CHAPTER 3  
(S.B. No. 1003)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR FISCAL YEAR 2015; 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 210, Laws of 2014, and any other appropriation provided for by law, there is hereby appropriated to the Department of Environmental Quality for the Waste Management and Remediation Program from the Department of Environmental Quality (Receipts) Fund, the following amounts to be expended for the designated expense classes, for the period July 1, 2014, through June 30, 2015:

FOR:

Personnel Costs	\$145,000
Operating Expenditures	<u>355,000</u>
TOTAL	\$500,000

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 11, 2015

CHAPTER 4  
(H.B. No. 26)

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 \$17,529,000 from the General Fund to the Fire Suppression Deficiency Fund as soon as practicable. Such moneys shall be used to reimburse costs incurred by the Range and Forest Fire Protection Program in the Department of Lands pursuant to Sections 38-131 and 38-131A, Idaho Code.

SECTION 2. There is hereby appropriated and the State Controller shall transfer \$389,400 from the General Fund to the Pest Control Deficiency Fund as soon as practicable. Such moneys shall be used to reimburse costs incurred by the Plant Industries Program in the Department of Agriculture pursuant to Section 22-2019, Idaho Code.

SECTION 3. There is hereby appropriated and the State Controller shall transfer \$63,500 from the General Fund to the Hazardous Substance Emergency Response Fund as soon as practicable. Such moneys shall be used to reimburse costs incurred by the Bureau of Homeland Security in the Military Division of the Office of the Governor pursuant to Section 39-7110, Idaho Code.

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

Approved February 11, 2015

CHAPTER 5  
(H.B. No. 40)

AN ACT  
APPROPRIATING ADDITIONAL MONEYS TO THE OFFICE OF ENERGY RESOURCES FOR FISCAL  
YEAR 2015; 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 170, Laws of 2014, and any other appropriation provided for by law, there is hereby appropriated to the Office of Energy Resources, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2014, through June 30, 2015:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
Indirect Cost Recovery				
Fund		\$12,000		\$12,000
Federal Grant				
Fund	<u>\$29,000</u>	<u>35,000</u>	<u>\$170,000</u>	<u>234,000</u>
TOTAL	\$29,000	\$47,000	\$170,000	\$246,000

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 11, 2015

CHAPTER 6  
(H.B. No. 41)

AN ACT

REDUCING THE APPROPRIATION TO THE STATE INDEPENDENT LIVING COUNCIL FOR FISCAL YEAR 2015; APPROPRIATING ADDITIONAL MONEYS TO THE STATE INDEPENDENT LIVING COUNCIL FOR FISCAL YEAR 2015; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made to the State Independent Living Council in Section 1, Chapter 179, Laws of 2014, from the General Fund, is hereby reduced by \$19,500 for operating expenditures, for the period July 1, 2014, through June 30, 2015.

SECTION 2. In addition to the appropriation made in Section 1, Chapter 179, Laws of 2014, and any other appropriation provided for by law, there is hereby appropriated to the State Independent Living Council, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2014, through June 30, 2015:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General			
Fund	\$19,500		\$19,500
State Independent Living Council (Ded)			
Fund	<u>70,000</u>	<u>\$5,000</u>	<u>75,000</u>
TOTAL	\$89,500	\$5,000	\$94,500

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

Approved February 17, 2015

CHAPTER 7  
(S.B. No. 1013)

AN ACT

REDUCING THE APPROPRIATION TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 2015; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 2015; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made to the Department of Fish and Game in Section 1, Chapter 197, Laws of 2014, is hereby reduced by the following amounts, according to the designated programs and expense classes, from the listed funds for the period July 1, 2014, through June 30, 2015:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
<b>I. ADMINISTRATION:</b>				
FROM:				
Fish and Game (Licenses)				
Fund		\$81,900	\$400,000	\$481,900
Fish and Game (Federal)				
Fund		<u>500</u>	<u>0</u>	<u>500</u>
TOTAL		\$82,400	\$400,000	\$482,400
<b>II. FISHERIES:</b>				
FROM:				
Fish and Game (Licenses)				
Fund	\$163,500			\$163,500
Fish and Game (Federal)				
Fund	<u>489,700</u>			<u>489,700</u>
TOTAL	\$653,200			\$653,200
<b>III. WILDLIFE:</b>				
FROM:				
Fish and Game (Licenses)				
Fund		\$957,700		\$957,700
<b>IV. COMMUNICATIONS:</b>				
FROM:				
Fish and Game (Licenses)				
Fund	\$29,500			\$29,500
GRAND TOTAL	\$682,700	\$1,040,100	\$400,000	\$2,122,800

SECTION 2. In addition to the appropriation made in Section 1, Chapter 197, Laws of 2014, and any other appropriation provided for by law, there is hereby appropriated to the Department of Fish and Game, the following amounts to be expended for the designated programs and expense classes, from the listed funds for the period July 1, 2014, through June 30, 2015:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
<b>I. ADMINISTRATION:</b>				
FROM:				
Fish and Game (Licenses)				
Fund	\$38,000			\$38,000
Fish and Game (Federal)				
Fund	<u>16,000</u>			<u>16,000</u>
TOTAL	\$54,000			\$54,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
<b>II. ENFORCEMENT:</b>				
FROM:				
Fish and Game (Licenses)				
Fund	\$50,000			\$50,000
<b>III. FISHERIES:</b>				
FROM:				
Fish and Game (Other)				
Fund	\$387,600			\$387,600
<b>IV. WILDLIFE:</b>				
FROM:				
Fish and Game (Licenses)				
Fund	\$3,200			\$3,200
Fish and Game (Federal)				
Fund	<u>64,000</u>	<u>\$415,700</u>		<u>479,700</u>
TOTAL	\$67,200	\$415,700		\$482,900
<b>V. COMMUNICATIONS:</b>				
FROM:				
Fish and Game (Licenses)				
Fund		\$150,300		\$150,300
Fish and Game (Federal)				
Fund	<u>\$79,500</u>	<u>0</u>		<u>79,500</u>
TOTAL	\$79,500	\$150,300		\$229,800
<b>VI. ENGINEERING:</b>				
FROM:				
Fish and Game (Licenses)				
Fund	\$44,400			\$44,400
GRAND TOTAL	\$682,700	\$566,000		\$1,248,700

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

Approved February 18, 2015



CHAPTER 8  
(H.B. No. 16)

AN ACT

RELATING TO LICENSE PLATES; AMENDING SECTION 49-402, IDAHO CODE, TO PROVIDE A CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-420N, IDAHO CODE, TO PROVIDE FOR IDAHO FRIENDS OF THE NATIONAL RIFLE ASSOCIATION PLATES.

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

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

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

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

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

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

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

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

(4) For operation of an all-terrain vehicle, utility type vehicle or motorbike, excluding a motorbike with an engine displacement of fifty (50) cubic centimeters or less, on city, county or highway district roads or

highways open to such use, a restricted vehicle license plate fee pursuant to section 49-450, Idaho Code, shall be paid. In addition, the registration fee specified in section 67-7122, Idaho Code, shall be paid as provided in section 67-7122, Idaho Code. The registration and restricted vehicle license plate exemption provided in section 49-426(2), Idaho Code, applies to all-terrain vehicles, utility type vehicles, motorbikes and motorcycles used for the purposes described in subsection (2) of section 49-426, Idaho Code. Nonresidents shall be allowed to purchase a restricted vehicle license plate and sticker for an all-terrain vehicle, utility type vehicle or motorbike.

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

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

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

(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 and shall be subject to staggered registration for the purpose of reregistration and notice of expiration.

(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, 49-420K, 49-420L, and 49-420M and 49-420N, Idaho Code, and any new special plate program effective on and after January 1, 2013, pursuant to section 49-402D, Idaho Code, there shall be an initial program fee of thirty-five dollars (\$35.00) and an annual program fee of twenty-five dollars (\$25.00). The fees contained in this subsection shall be applicable to all new special plate programs and shall be subject to staggered registration for the purpose of reregistration and notice of expiration. The initial program fee and the annual program fee shall be deposited in the state highway account and shall be used to fund the cost of administration of special license plate programs, unless otherwise specified by law.

(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 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 49-420N, Idaho Code, and to read as follows:

49-420N. IDAHO FRIENDS OF THE NATIONAL RIFLE ASSOCIATION PLATES. (1) On and after July 1, 2015, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon department approval, receive Idaho friends of the national rifle association 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 friends of the national rifle association license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Thirteen dollars (\$13.00) of the initial fee and thirteen dollars (\$13.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-two dollars (\$22.00) of each initial fee and twelve dollars (\$12.00) of each renewal fee shall be transferred by the state treasurer for deposit with the national rifle association foundation Idaho state grant fund. The national rifle association foundation Idaho state grant fund is restricted to utilization of received funds within the state of Idaho.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The Idaho friends of the national rifle association license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. That portion of the design that features the Idaho friends of the national rifle association design shall be acceptable to the secretary of the national rifle association. The design shall be approved by the Idaho transportation department utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Idaho friends of the national rifle association.

(5) Sample Idaho friends of the national rifle association 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 national rifle association foundation Idaho state grant fund. The national rifle

association foundation Idaho state grant fund is restricted to utilization of received funds within the state of Idaho. No additional fee shall be charged for personalizing sample plates.

Approved February 19, 2015

CHAPTER 9  
(H.B. No. 27)

AN ACT

RELATING TO RECREATION DISTRICTS AND PROPERTY TAX; AMENDING SECTION 31-4314, IDAHO CODE, TO REMOVE A PROVISION THAT A CERTAIN IDAHO CODE SECTION DOES NOT APPLY TO CERTAIN RECREATION DISTRICTS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 31-4314, Idaho Code, be, and the same is hereby amended to read as follows:

31-4314. LIMITATION OF POWER TO INCUR DEBT. Neither the board nor any officer shall have power to incur any debt or liability on behalf of the district, whether by issuance of bonds or otherwise, in excess of the express provisions of this act and any such debt or liability so incurred shall be void; except that for the purpose of organization or for any of the purposes of this act, the board may, before making the tax levy in the fiscal year of organization, incur debts not exceeding in the total a sum equal to one-tenth of one percent (0.1%) of market value for assessment purposes of the taxable property within the district or five-tenths of one percent (0.5%) of market value for assessment purposes of the taxable property within a district that is created pursuant to section 31-4304A, Idaho Code. ~~The provisions of section 63-807, Idaho Code, shall not apply to any recreation district if that district is created prior to June 1.~~

Approved February 19, 2015

CHAPTER 10  
(H.B. No. 28)

AN ACT

RELATING TO LEVY AND APPORTIONMENT OF TAXES; AMENDING SECTION 63-802, IDAHO CODE, TO PROVIDE A CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-802, IDAHO CODE, AS ADDED BY SECTION 12, CHAPTER 339, LAWS OF 2012, 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 63-802, Idaho Code, be, and the same is hereby amended to read as follows:

63-802. LIMITATION ON BUDGET REQUESTS -- LIMITATION ON TAX CHARGES -- EXCEPTIONS. (1) Except as provided in subsections (3) and (4) of this section, no taxing district shall certify a budget request for an amount of property tax revenues to finance an annual budget that exceeds the greater of paragraphs (a) through (i) of this subsection inclusive:

- (a) The dollar amount of property taxes certified for its annual budget for any one (1) of the three (3) tax years preceding the current tax year, whichever is greater, for the past tax year, which amount may be increased by a growth factor of not to exceed three percent (3%) plus the amount of revenue calculated as described in this subsection. Multiply the levy of the previous year, not including any levy described in subsection (4) of this section, or any school district levy reduction resulting from a distribution of state funds pursuant to section 63-3638(11) or (13), Idaho Code, by the value shown on the new construction roll compiled pursuant to section 63-301A, Idaho Code; and by the value of annexation during the previous calendar year, as certified by the state tax commission for market values of operating property of public utilities and by the county assessor;
- (b) The dollar amount of property taxes certified for its annual budget during the last year in which a levy was made;
- (c) The dollar amount of the actual budget request, if the taxing district is newly created except as may be provided in subsection (1) (h) of this section;
- (d) In the case of school districts, the restriction imposed in section 33-802, Idaho Code;
- (e) In the case of a nonschool district for which less than the maximum allowable increase in the dollar amount of property taxes is certified for annual budget purposes in any one (1) year, such a district may, in any following year, recover the foregone increase by certifying, in addition to any increase otherwise allowed, an amount not to exceed one hundred percent (100%) of the increase originally foregone. Said additional amount shall be included in future calculations for increases as allowed;
- (f) In the case of cities, if the immediately preceding year's levy subject to the limitation provided by this section, is less than 0.004, the city may increase its budget by an amount not to exceed the difference between 0.004 and actual prior year's levy multiplied by the prior year's market value for assessment purposes. The additional amount must be approved by sixty percent (60%) of the voters voting on the question at an election called for that purpose and held on the date in May or November provided by law, and may be included in the annual budget of the city for purposes of this section;
- (g) A taxing district may submit to the electors within the district the question of whether the budget from property tax revenues may be increased beyond the amount authorized in this section, but not beyond the levy authorized by statute. The additional amount must be approved by sixty-six and two-thirds percent (66 2/3%) or more of the voters voting on the question at an election called for that purpose and held on the May or November dates provided by section 34-106, Idaho Code. If approved by the required minimum sixty-six and two-thirds percent (66 2/3%) of the voters voting at the election, the new budget amount shall be the base budget for the purposes of this section;
- (h) When a nonschool district consolidates with another nonschool district or dissolves and a new district performing similar governmental functions as the dissolved district forms with the same boundaries within three (3) years, the maximum amount of a budget of the district from property tax revenues shall not be greater than the sum of the amounts that would have been authorized by this section for the district itself or for the districts that were consolidated or dissolved and incorporated into a new district;
- (i) In the instance or case of cooperative service agencies, the restrictions imposed in sections 33-315 through 33-318, Idaho Code.
- (2) In the case of fire districts, during the year immediately following the election of a public utility or public utilities to consent to be pro-

vided fire protection pursuant to section 31-1425, Idaho Code, the maximum amount of property tax revenues permitted in subsection (1) of this section may be increased by an amount equal to the current year's taxable value of the consenting public utility or public utilities multiplied by that portion of the prior year's levy subject to the limitation provided by subsection (1) of this section.

(3) No board of county commissioners shall set a levy, nor shall the state tax commission approve a levy for annual budget purposes, which exceeds the limitation imposed in subsection (1) of this section, unless authority to exceed such limitation has been approved by a majority of the taxing district's electors voting on the question at an election called for that purpose and held pursuant to section 34-106, Idaho Code, provided however, that such voter approval shall be for a period of not to exceed two (2) years.

(4) The amount of property tax revenues to finance an annual budget does not include revenues from nonproperty tax sources, and does not include revenue from levies to satisfy judgments pursuant to section 63-1305A, Idaho Code, and revenue from levies that are voter approved for bonds, override levies or supplemental levies, plant facilities reserve fund levies, school emergency fund levies or for levies applicable to newly annexed property or for levies applicable to new construction as evidenced by the value of property subject to the occupancy tax pursuant to section 63-317, Idaho Code, for the preceding tax year.

SECTION 2. That Section 63-802, Idaho Code, as added by Section 12, Chapter 339, Laws of 2012, be, and the same is hereby amended to read as follows:

63-802. LIMITATION ON BUDGET REQUESTS -- LIMITATION ON TAX CHARGES -- EXCEPTIONS. (1) Except as provided in subsection (3) of this section, no taxing district shall certify a budget request for an amount of property tax revenues to finance an annual budget that exceeds the greater of paragraphs (a) through (i) of this subsection inclusive:

(a) The dollar amount of property taxes certified for its annual budget for any one (1) of the three (3) tax years preceding the current tax year, whichever is greater, for the past tax year, which amount may be increased by a growth factor of not to exceed three percent (3%) plus the amount of revenue calculated as described in this subsection. Multiply the levy of the previous year, not including any levy described in subsection (4) of this section, or any school district levy reduction resulting from a distribution of state funds pursuant to section 63-3638(11) or (13), Idaho Code, by the value shown on the new construction roll compiled pursuant to section 63-301A, Idaho Code; and by the value of annexation during the previous calendar year, as certified by the state tax commission for market values of operating property of public utilities and by the county assessor;

(b) The dollar amount of property taxes certified for its annual budget during the last year in which a levy was made;

(c) The dollar amount of the actual budget request, if the taxing district is newly created except as may be provided in subsection (1) (h) of this section;

(d) In the case of school districts, the restriction imposed in section 33-802, Idaho Code;

(e) In the case of a nonschool district for which less than the maximum allowable increase in the dollar amount of property taxes is certified for annual budget purposes in any one (1) year, such a district may, in any following year, recover the foregone increase by certifying, in addition to any increase otherwise allowed, an amount not to exceed one hundred percent (100%) of the increase originally foregone. Said addi-

tional amount shall be included in future calculations for increases as allowed;

(f) In the case of cities, if the immediately preceding year's levy subject to the limitation provided by this section, is less than 0.004, the city may increase its budget by an amount not to exceed the difference between 0.004 and actual prior year's levy multiplied by the prior year's market value for assessment purposes. The additional amount must be approved by sixty percent (60%) of the voters voting on the question at an election called for that purpose and held on the date in May or November provided by law, and may be included in the annual budget of the city for purposes of this section;

(g) A taxing district may submit to the electors within the district the question of whether the budget from property tax revenues may be increased beyond the amount authorized in this section, but not beyond the levy authorized by statute. The additional amount must be approved by sixty-six and two-thirds percent (66 2/3%) or more of the voters voting on the question at an election called for that purpose and held on the May or November dates provided by section 34-106, Idaho Code. If approved by the required minimum sixty-six and two-thirds percent (66 2/3%) of the voters voting at the election, the new budget amount shall be the base budget for the purposes of this section;

(h) When a nonschool district consolidates with another nonschool district or dissolves and a new district performing similar governmental functions as the dissolved district forms with the same boundaries within three (3) years, the maximum amount of a budget of the district from property tax revenues shall not be greater than the sum of the amounts that would have been authorized by this section for the district itself or for the districts that were consolidated or dissolved and incorporated into a new district;

(i) In the instance or case of cooperative service agencies, the restrictions imposed in sections 33-315 through 33-318, Idaho Code.

(2) In the case of fire districts, during the year immediately following the election of a public utility or public utilities to consent to be provided fire protection pursuant to section 31-1425, Idaho Code, the maximum amount of property tax revenues permitted in subsection (1) of this section may be increased by an amount equal to the current year's taxable value of the consenting public utility or public utilities multiplied by that portion of the prior year's levy subject to the limitation provided by subsection (1) of this section.

(3) No board of county commissioners shall set a levy, nor shall the state tax commission approve a levy for annual budget purposes, which exceeds the limitation imposed in subsection (1) of this section, unless authority to exceed such limitation has been approved by a majority of the taxing district's electors voting on the question at an election called for that purpose and held pursuant to section 34-106, Idaho Code, provided however, that such voter approval shall be for a period of not to exceed two (2) years.

(4) The amount of property tax revenues to finance an annual budget does not include revenues from nonproperty tax sources, and does not include revenue from levies that are voter approved for bonds, override levies or supplemental levies, plant facilities reserve fund levies, school emergency fund levies or for levies applicable to newly annexed property or for levies applicable to new construction as evidenced by the value of property subject to the occupancy tax pursuant to section 63-317, Idaho Code, for the preceding tax year.

SECTION 3. Section 2 of this act shall be in full force and effect on and after July 1, 2017.

Approved February 19, 2015

CHAPTER 11  
(H.B. No. 21)

AN ACT

RELATING TO NURSES; AMENDING SECTION 54-1406, IDAHO CODE, TO REMOVE A REQUIREMENT THAT THE STATE BOARD OF EDUCATION MUST APPROVE ANY CURRICULUM OR RULE CHANGE IN A NURSING PROGRAM THAT MAY ALTER EXISTING ARTICULATION AGREEMENTS BETWEEN EDUCATIONAL INSTITUTIONS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-1406, Idaho Code, be, and the same is hereby amended to read as follows:

54-1406. NURSING EDUCATION PROGRAMS. Approval.

(a1) Qualifications. Persons and institutions desiring to offer or conduct approved nursing education programs in the state of Idaho shall comply herewith. Approval shall be conditioned upon and subject to continuing compliance with standards adopted by the board respecting faculty, staff, curriculum, administration, financial stability and other matters affecting the quality of nursing education. ~~However, any curriculum or rule change considered by the board which may alter existing articulation agreements between educational institutions, or existing nursing programs of the eleven (11) month LPN, the two (2) year associate degree/RN, or the four (4) year baccalaureate degree must be approved by the state board of education prior to implementation.~~

(b2) Initial compliance. Upon receipt of an application hereunder, a survey of the program, including clinical facilities and affiliated institutions, shall be made under the direction of the executive director and a written report of the findings shall be submitted to the board. If the board determines that the standards have been met, it shall issue a certificate of approval.

(e3) Continuing compliance. To ~~insure~~ ensure the continuing compliance with adopted standards, all approved nursing education programs shall be surveyed and reviewed periodically under the direction of the executive director. Written reports of the findings shall be submitted to the board. In the event any program fails to maintain compliance required by this section, the board may withdraw its prior certification, or impose such conditions and restrictions as may secure compliance within a reasonable period of time by notification in writing and specifying the reasons for the action. Action against any existing program must be based upon fact and subject to appeal as provided for administrative action pursuant to chapter 52, title 67, Idaho Code.

Approved February 23, 2015



CHAPTER 12  
(H.B. No. 22)

AN ACT

RELATING TO DISTRICT TRUSTEES; REPEALING SECTION 33-503A, IDAHO CODE, RELATING TO TRANSITION OF SCHOOL TRUSTEE TERMS FROM THREE YEARS TO FOUR YEARS.

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

SECTION 1. That Section 33-503A, Idaho Code, be, and the same is hereby repealed.

Approved February 23, 2015

CHAPTER 13  
(H.B. No. 77)

AN ACT

RELATING TO INCOME TAX; AMENDING SECTION 63-3004, IDAHO CODE, TO UPDATE A REFERENCE 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 20145.

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

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

SECTION 2. 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, 2015.

Approved February 23, 2015

CHAPTER 14  
(S.B. No. 1021)

AN ACT

RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5208, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE AUTHORIZER FEE FORMULA AND TO REVISE THE PAYMENT DEADLINE FOR THE AUTHORIZER FEE.

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

SECTION 1. That Section 33-5208, Idaho Code, be, and the same is hereby amended to read as follows:

33-5208. PUBLIC CHARTER SCHOOL FINANCIAL SUPPORT. Except as provided in subsection (10) of this section, from the state educational support program the state department of education shall make the following apportionment to each public charter school for each fiscal year based on attendance figures submitted in a manner and time as required by the department of education:

(1) Per student support. Computation of support units for each public charter school shall be calculated as if it were a separate school according to the schedules in section 33-1002(4), Idaho Code, except that public charter schools with fewer than one hundred (100) secondary ADA shall use a divisor of twelve (12) and the minimum units shall not apply, and no public charter school shall receive an increase in support units that exceeds the support units it received in the prior year by more than thirty (30). Funding from the state educational support program shall be equal to the total distribution factor, plus the salary-based apportionment provided in chapter 10, title 33, Idaho Code. Provided however, any public charter school that is formed by the conversion of an existing traditional public school shall be assigned divisors, pursuant to section 33-1002, Idaho Code, that are no lower than the divisors of the school district in which the traditional public school is located, for each category of pupils listed.

(2) Special education. For each student enrolled in the public charter school who is entitled to special education services, the state and federal funds from the exceptional child education program for that student that would have been apportioned for that student to the school district in which the public charter school is located.

(3) Alternative school support. Public charter schools may qualify under the provisions of sections 33-1002 and 33-1002C, Idaho Code, provided the public charter school meets the necessary statutory requirements, and students qualify for attendance at an alternative school as provided by rule of the state board of education.

(4) Transportation support. Support shall be paid to the public charter school as provided in chapter 15, title 33, Idaho Code, and section 33-1006, Idaho Code. Each public charter school shall furnish the department with an enrollment count as of the first Friday in November, of public charter school students who are eligible for reimbursement of transportation costs under the provisions of this subsection and who reside more than one and one-half (1 1/2) miles from the school. The state department of education is authorized to include in the annual appropriation to the charter school sixty percent (60%) of the estimated transportation cost. The final appropriation payment in July shall reflect reimbursements of actual costs pursuant to section 33-1006, Idaho Code. To be eligible for state reimbursement under the provisions of section 33-1006, Idaho Code, the student to be transported must reside within the public charter school's primary attendance area, and must meet at least one (1) of the following two (2) criteria:

(a) The student resides within the school district in which the public charter school is physically located; or

(b) The student resides within fifteen (15) miles of the public charter school, by road.

The limitations placed by this subsection on the reimbursement of transportation costs for certain students shall not apply to public virtual schools.

(5) Facilities funds. The state department of education shall distribute facilities funds to public charter schools for each enrolled student in which a majority of the student's instruction is received at a facility that is owned or leased by the public charter school. Such funds shall be used to defray the purchase, fee, loan or lease costs associated with payments for real property used by the students or employees of the public charter school for educational or administrative purposes. Such funds shall be distributed from the moneys appropriated to the educational support program, and shall be calculated as a percentage of the statewide average amount of bond and plant facility funds levied per student by Idaho school districts, as follows:

Fiscal Year 2014	Twenty Percent (20%)
Fiscal Year 2015	Thirty Percent (30%)

For fiscal year 2016 and each fiscal year thereafter, this percentage shall increase by ten percent (10%) each time the total appropriation of state funds for the educational support program increases by three percent (3%) or more over the prior fiscal year, and shall decrease by ten percent (10%) each time the total appropriation of state funds for the educational support program decreases as compared to the prior fiscal year. Provided however, that the percentage shall be no less than twenty percent (20%) and no greater than fifty percent (50%), and that the average amount of funding received per public charter school shall not exceed the average amount of funding received by each school district pursuant to the provisions of section 33-906, Idaho Code.

For those public charter schools that do not receive facilities funds for all enrolled students, the school may submit to the state department of education a reimbursement claim for any costs for which facilities funds may be used. The state department of education shall reduce such claim by the greater of fifty percent (50%) or the percentage of the school's enrolled students for which the school receives facilities funds, and shall pay the balance. Provided however, that the total reimbursements paid to a public charter school, in combination with any facilities stipend received by the school, shall not exceed the amount of facilities funds that would have been received by the school had the school received facilities funds for all enrolled students. For the purposes of this subsection, the term "real property" shall be used as defined in section 63-201, Idaho Code.

(6) Payment schedule. The state department of education is authorized to make an advance payment of twenty-five percent (25%) of a public charter school's estimated annual apportionment for its first year of operation, and each year thereafter, provided the public charter school is serving more grades or at least ten percent (10%) more classes than the previous year, to assist the school with initial start-up costs or payroll obligations. For a public charter school entering its second or greater year of operations, the state department of education may require documentation establishing the need for such an advance payment, including comparative class schedules and proof of a commensurate increase in the number of employees.

(a) For a public charter school to receive the advance payment, the school shall submit its anticipated fall membership for each grade level to the state department of education by June 1.

(b) Using the figures provided by the public charter school, the state department of education shall determine an estimated annual apportionment from which the amount of the advance payment shall be calculated. Advance payment shall be made to the school on or after July 1 but no later than July 31.

(c) All subsequent payments, taking into account the one-time advance payment made for the first year of operation, shall be made to the public charter school in the same manner as other traditional public schools in accordance with the provisions of section 33-1009, Idaho Code.

A public charter school shall comply with all applicable fiscal requirements of law, except that the following provisions shall not be applicable to public charter schools: that portion of section 33-1004, Idaho Code, relating to reduction of the administrative and instructional staff allowance when there is a discrepancy between the number allowed and the number actually employed; and section 33-1004E, Idaho Code, for calculation of district staff indices.

(7) Nothing in this chapter shall be construed to prohibit any private person or organization from providing funding or other financial assistance to the establishment or operation of a public charter school.

(8) Each public charter school shall pay an authorizer fee to its authorized chartering entity, to defray the actual documented cost of monitoring, evaluation and oversight, which, in the case of public charter schools authorized by the public charter school commission, shall include each school's proportional fee share of all moneys appropriated from the public charter school authorizers fund to the public charter school commission, plus fifteen percent (15%). Provided however, that each public charter school's board of directors may direct up to ten percent (10%) of the calculated fee to pay membership fees to an organization or association that provides technical assistance, training and advocacy for Idaho public charter schools. Unless the authorized chartering entity declines payment, such fee shall be paid by ~~February~~ March 15 of each fiscal year and shall not exceed the greater of:

(a) All state funds distributed to public schools on a support unit basis for the prior fiscal year, divided by the statewide number of public school students in average daily attendance in the first reporting period in the prior fiscal year; or

(b) The lesser of:

(i) The result of the calculation in subsection (8) (a) of this section, multiplied by four (4); or

(ii) One and one-half percent (1.5%) of the result of the calculation in subsection (8) (a) of this section, multiplied by the public charter school's average daily attendance in the first reporting period in the current fiscal year.

(9) Nothing in this chapter shall prevent a public charter school from applying for federal grant moneys.

(10) (a) Each student in attendance at a public virtual school shall be funded based upon either the actual hours of attendance in the public virtual school on a flexible schedule, or the percentage of coursework completed, whichever is more advantageous to the school, up to the maximum of one (1) full-time equivalent student.

(b) All federal educational funds shall be administered and distributed to public charter schools, including public virtual schools, that have been designated as a local education agency (LEA), as provided in section 33-5203(7), Idaho Code.

(11) Nothing in this section prohibits separate face-to-face learning activities or services.

(12) The provisions of section 33-1021, Idaho Code, shall apply to public charter schools provided for in this chapter.

Approved February 24, 2015

CHAPTER 15  
(H.B. No. 168)

AN ACT

PROVIDING LEGISLATIVE INTENT TO MAINTAIN BROADBAND SERVICES TO IDAHO PUBLIC SCHOOLS; APPROPRIATING ADDITIONAL MONEYS IN FISCAL YEAR 2015 TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION; PROVIDING LEGISLATIVE INTENT REGARDING THE USE OF FUNDS; AUTHORIZING PROCUREMENT FLEXIBILITY FOR SCHOOL DISTRICTS; REQUIRING REPORTING BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION; REDUCING THE FISCAL YEAR 2015 APPROPRIATION TO THE DEPARTMENT OF ADMINISTRATION PROVIDED IN SECTION 1, CHAPTER 227, LAWS OF 2014; REDUCING THE FISCAL YEAR 2015 APPROPRIATION TO THE DEPARTMENT OF ADMINISTRATION PROVIDED IN SECTION 1, CHAPTER 229, LAWS OF 2014; AND DECLARING AN EMERGENCY.

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

SECTION 1. LEGISLATIVE INTENT. It is a legislative priority to maintain broadband services and ensure minimal interruption of such services to Idaho schools by providing direct funding to schools for the remainder of the 2014-2015 school year. This funding is intended to protect Idaho's schoolchildren and their education from disruption in the current school year while the state works on a longer-term solution to pay for Internet-based curriculum and connectivity. Funding is provided for the state match and the equivalent of E-rate funding previously used to support the Idaho Education Network beginning on February 11, 2015, through June 30, 2015.

SECTION 2. In addition to the appropriation made in Section 1, Chapter 308, Laws of 2014, and any other appropriation provided for by law, there is hereby appropriated to the Superintendent of Public Instruction, \$3,640,500 from the General Fund, to be expended for the period July 1, 2014, through July 31, 2015.

SECTION 3. USE OF FUNDS. It is the intent of the Legislature that the funding provided in Section 2 of this act is for schools to purchase broadband services in an amount equivalent to what was provided through the Idaho Education Network as of February 1, 2015.

(a) The Superintendent of Public Instruction shall require school districts to provide documentation, as determined by the superintendent, to support all funds distributed.

(b) The superintendent shall have the authority to make advances of the money appropriated in Section 2 of this act to school districts as the superintendent deems adequate, as determined by past usage, and of sufficiency to minimize financial difficulties by the school districts while procuring services.

(c) The superintendent shall target the resources necessary for students currently relying on online curricula by coordinating with the Idaho Digital Learning Academy and other providers of online education to identify barriers to completing their courses and finding appropriate solutions. The superintendent shall prioritize assistance to those students who are scheduled to graduate in the spring or winter of 2015.

(d) This is a fixed appropriation and any surplus shall revert back to the General Fund on July 31, 2015. School districts are cautioned that funding from the state for fiscal year 2016 is not included in this act. However, it is the intent of the Legislature to provide funding for these services for fiscal year 2016 as soon as is practicable.

SECTION 4. PROCUREMENT FLEXIBILITY FOR SCHOOL DISTRICTS. It is the intent of the Legislature that school districts shall have the power to procure telecommunication services, including high-bandwidth connectivity, Internet access, and purchases of equipment, and other related services, as necessary to provide for the continuation of services formerly provided by the Idaho Education Network, with the funds appropriated in Section 2 of this act. All procurement shall be in accordance with Idaho Code governing procurement for an emergency pursuant to Section 67-2806 (1)(b), Idaho Code. Provided however, that when a school district determines that the dollar limitations provided for in Section 67-2806(2), Idaho Code, apply, the school district may apply the provisions of Section 67-2806(1)(a) through (e), Idaho Code, allowing certain exemptions for an emergency under Section 67-2806(1)(b), Idaho Code, when the school district finds that conditions exist that make it impractical or impossible to delay contracting for services or to engage multiple bidders. Although not limiting, the following school districts most likely to make such a determination, due to the projected cost of the services, are the following: Boundary County School District, Coeur d'Alene School District, Fremont County Joint School District, Garden Valley School District, Lake Pend Oreille School District, Lakeland School District, Mountain View School District, Post Falls School District, Salmon River Joint School District and Teton County School District.

SECTION 5. REPORTING REQUIREMENTS. The superintendent shall collect information from the school districts and report back to the Legislature and to the Governor as to the level of service purchased with the funds provided for in Section 2 of this act, the dollar amounts distributed to each of the school districts, a list of the school districts using the emergency procurement procedures authorized in Section 4 of this act, and information relating to students, by school district, who will be able to continue online classes through the current school year, of which classes were previously offered through the Idaho Education Network or any other online providers. This information shall be provided to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Chairmen of the Senate and House Education Committees, the Chairmen of the Joint Finance-Appropriations Committee, and to the Governor, at the end of each month beginning in March continuing through July 2015.

SECTION 6. Notwithstanding any other provision of law to the contrary, the appropriation made to the Department of Administration for the Idaho Education Network Program in Section 1, Chapter 227, Laws of 2014, from the General Fund, is hereby reduced by \$1,759,700, for operating expenditures, for the period July 1, 2014, through June 30, 2015.

SECTION 7. Notwithstanding any other provision of law to the contrary, the appropriation made to the Department of Administration for the Idaho Education Network Program in Section 1, Chapter 229, Laws of 2014, from the General Fund, is hereby reduced by \$3,292,300, for operating expenditures, for the period July 1, 2014, through February 28, 2015.

SECTION 8. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 25, 2015

CHAPTER 16  
(H.B. No. 10)

AN ACT

RELATING TO INCOME TAX; AMENDING SECTION 63-3039, IDAHO CODE, TO PROVIDE THAT CERTAIN PUBLICATION AND PRINTING REQUIREMENTS ARE SATISFIED IF THE INFORMATION IS MADE AVAILABLE TO THE PUBLIC IN ELECTRONIC FORM AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 63-3039, Idaho Code, be, and the same is hereby amended to read as follows:

63-3039. RULES AND REGULATIONS -- PUBLICATION OF STATISTICS AND LAW. (a~~1~~) The state tax commission shall prescribe all needful rules and regulations for the enforcement of this act, ~~which shall be deemed to include all interpretations and constructions of this act, which must be uniformly made~~ by the state tax commission, and shall prepare all forms which may be required of taxpayers. All rules or regulations and forms shall be printed for general distribution and the state tax commission is hereby authorized to contract for such printing. The state tax commission may make a charge for each copy of rules and regulations, which charge shall not exceed the actual cost of printing the same plus the actual expense of the state tax commission for postage or other handling costs but no charge shall be made for any form required of taxpayers. No rule or regulation shall become effective until thirty (30) days after the rule or regulation as published is made available to the public and each rule or regulation requiring compliance by a taxpayer shall have an effective date. The state tax commission is authorized to establish an annual charge for all rules, regulations and other publications of the commission and to receive subscriptions therefor which shall entitle the subscriber to delivery of such publications by mail as soon as the same are published.

(b~~2~~) The state tax commission shall as soon as practicable after the effective date of this act adopt rules and regulations as provided herein. Such rules and regulations shall conform wherever practicable to the regulations promulgated by the commissioner for the Internal Revenue Code.

(e~~3~~) Any law to the contrary notwithstanding, the state tax commission shall prepare and publish annually such statistics as are reasonably available with respect to the operation of the commission including pertinent statistics of the income reported, taxes collected, and such other matters as may be deemed valuable information for the public and also such information and statistics as the governor and/or the legislature may require from time to time.

(d~~4~~) The state tax commission shall cause this act to be published in pamphlet form together with such amendments as may from time to time be made, which pamphlet shall include any rules or regulations then in effect and shall provide for the sale of the same to the public at a uniform price not to exceed the cost of printing plus the actual cost for postage and other handling charges incurred by the state tax commission.

(5) The publication and printing requirements set forth in this section for the act, amendments to the act, and rules or regulations are satisfied if the information is made available to the public in electronic form.

Approved February 26, 2015

CHAPTER 17  
(H.B. No. 11)

AN ACT

RELATING TO SALES TAX; AMENDING SECTION 63-3622J, IDAHO CODE, TO CORRECT A CODE REFERENCE; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

63-3622J. SCHOOL, CHURCH AND SENIOR CITIZEN MEALS. There is exempted from the taxes imposed by this chapter the sale of meals by public or private schools under the federal school lunch program or under programs that provide nutritional meals for the aging (Title VIII of the Older Americans Act, P.L. 93-29109-365), and the sale of meals by a church to its members at a church function.

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, 2015.

Approved February 26, 2015

CHAPTER 18  
(H.B. No. 20)

AN ACT

RELATING TO APPRAISEMENT, LEASE, AND SALE OF LANDS; AMENDING SECTION 58-335, IDAHO CODE, TO PROVIDE THAT LANDS OR PROPERTIES IN THE CUSTODY OF THE STATE BOARD OF EDUCATION ARE EXEMPT FROM A CERTAIN ACT, TO PROVIDE RELATED PROVISIONS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 58-335, Idaho Code, be, and the same is hereby amended to read as follows:

58-335. LANDS EXEMPT FROM ACT. This act shall not be construed as applying to any lands or properties acquired under the act of congress, known as the Idaho Admission Act, or in the subsequent operations of the various endowment funds of the state. Nor shall this act apply to any lands or properties in the custody of the state board of education and the board of regents of the University of Idaho in its their corporate capacity; provided, however, that the state board of education and the board of regents, desiring to avail itself themselves of the facilities of this act, for the sale, exchange or transfer of any such properties, may proceed to negotiate a sale, transfer or exchange with the state board of land commissioners as would any other tax-supported agency. If the state board of education and the board of regents of the University of Idaho does not avail itself of the facilities of this act, then the state board of education and the board of regents shall use a process for disposal of real property that includes, at a minimum, a required appraisal and public notice of the proposed real property disposal prior to disposal; and for property disposals that are not part of



an exchange or transfer, consideration given to granting a first option to purchase to local, state and federal governmental entities.

Approved February 26, 2015

CHAPTER 19  
(H.B. No. 37)

AN ACT

RELATING TO INCOME TAX; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3022U, IDAHO CODE, TO PROVIDE FOR A DEDUCTION FOR CERTAIN CHARITABLE CONTRIBUTIONS AND TO PROVIDE RELATED REQUIREMENTS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

63-3022U. DEDUCTION FOR CERTAIN CHARITABLE CONTRIBUTIONS. A taxpayer may deduct from taxable income the amount by which the taxpayer must reduce its charitable contribution deduction under section 170(d)(1)(B) or 170(d)(2)(B) of the Internal Revenue Code. The amount allowed to a part-year resident or nonresident will be determined pursuant to section 63-3026A(4), Idaho Code. This deduction shall not apply to the calculation set forth in section 63-3022L, Idaho Code.

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

Approved February 26, 2015

CHAPTER 20  
(H.B. No. 12)

AN ACT

RELATING TO SALES TAX; AMENDING SECTION 63-3622R, IDAHO CODE, TO PROVIDE THAT CERTAIN SALES OF UTILITY TYPE VEHICLES AND SPECIALTY OFF-HIGHWAY VEHICLES TO NONRESIDENTS ARE EXEMPT FROM SALES TAX IF CERTAIN CONDITIONS ARE MET, TO REVISE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS.

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, UTILITY TYPE VEHICLES, SPECIALTY OFF-HIGHWAY VEHICLES, 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), utility type vehicles (UTVs), specialty off-highway vehicles (SOHVs), 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, UTVs, SOHVs, 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, UTVs, SOHVs, 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 terms "all-terrain vehicle" or "ATV," "utility type vehicle" or "UTV," and "specialty off-highway vehicle" or "SOHV" means all-terrain vehicle or ATV, utility type vehicle or UTV, and specialty off-highway vehicle or SOHV as defined in section 49-102 67-7101, 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 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 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.

CHAPTER 21  
(H.B. No. 13)

AN ACT

RELATING TO INCOME TAX; AMENDING SECTION 63-3022F, IDAHO CODE, TO PROVIDE AN ADDITIONAL PROVISION RELATING TO THE COMPUTATION OF FEDERAL TAXABLE INCOME; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3029F, IDAHO CODE, TO ALLOW A CERTAIN CREDIT, TO PROVIDE RELATED REQUIREMENTS AND TO DEFINE A TERM; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

63-3022F. COMPUTATION OF TAX WHERE TAXPAYER RESTORES SUBSTANTIAL AMOUNT HELD UNDER THE CLAIM OF RIGHT. In the case of a taxpayer who is entitled to a reduction in federal tax due to the restoration of an item of gross income under section 1341 of the Internal Revenue Code (relating to the computation of tax where the taxpayer restores a substantial amount held under claim of right), there shall be allowed a deduction in determining Idaho taxable income as provided in section 1341(a)(4) of the Internal Revenue Code, if not otherwise deducted by the taxpayer for Idaho income tax purposes. In computing the deduction allowable under this section, no deduction shall be allowed if the item of gross income for a prior taxable year was not included in Idaho taxable income. If the taxpayer has claimed a credit for claim of right income repayment adjustment under section 63-3029F, Idaho Code, then there shall be added to federal taxable income any amount taken as a deduction under section 1341 of the Internal Revenue Code in computing federal taxable income for the tax year.

SECTION 2. 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 63-3029F, Idaho Code, and to read as follows:

63-3029F. CLAIM OF RIGHT INCOME REPAYMENT ADJUSTMENTS. (1) Subject to the provisions of this section, a credit against the taxes otherwise due shall be allowed to a taxpayer for a claim of right income repayment adjustment.

(2) The credit under this section shall be allowed only if the taxpayer's federal tax liability is determined under section 1341(a) of the Internal Revenue Code.

(3) The amount of the credit shall equal the difference between:

(a) The taxpayer's actual Idaho state income tax liability for the tax year for which the claim of right was included in gross income for federal tax purposes; and

(b) The taxpayer's Idaho state income tax liability for that tax year, had the claim of right income not been included in gross income for federal tax purposes.

(4) A credit under this section shall be allowed only for the tax year for which the taxpayer's federal tax liability is determined under section 1341 of the Internal Revenue Code for federal tax purposes.

(5) If the amount allowable as a credit under this section, when added to the sum of other amounts allowable as a payment of tax and other refundable credit amounts, exceeds the taxes imposed (reduced by any nonrefundable credits allowed for the tax year), then the excess shall be treated as

an overpayment of tax and shall be refunded or applied in the same manner as other tax overpayments.

(6) As used in this section, "claim of right income" means:

(a) An item included in federal gross income for a prior tax year because it appeared that the taxpayer had an unrestricted right to the item; and

(b) An item for which the taxpayer's federal tax liability is adjusted under section 1341 of the Internal Revenue Code because the taxpayer did not have an unrestricted right to the item of gross income.

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, 2015.

Approved March 3, 2015

CHAPTER 22  
(H.B. No. 52)

AN ACT

RELATING TO THE YOUTH CHALLENGE PROGRAM; REPEALING SECTION 2, CHAPTER 322, LAWS OF 2011, AS AMENDED BY SECTION 2, CHAPTER 234, LAWS OF 2012, TO REMOVE A SUNSET PROVISION; AND REPEALING SECTION 2, CHAPTER 234, LAWS OF 2012, TO REMOVE A SUNSET PROVISION.

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

SECTION 1. That Section 2, Chapter 322, Laws of 2011, as amended by Section 2, Chapter 234, Laws of 2012, be, and the same is hereby repealed.

SECTION 2. That Section 2, Chapter 234, Laws of 2012, be, and the same is hereby repealed.

Approved March 4, 2015

CHAPTER 23  
(S.B. No. 1018)

AN ACT

RELATING TO TEACHERS; AMENDING SECTION 33-1205, IDAHO CODE, TO REMOVE CERTAIN FEE AMOUNTS AND CERTAIN EFFECTIVE DATES AND TO REVISE PROVISIONS RELATING TO HOW CERTAIN FEES ARE USED.

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

SECTION 1. That Section 33-1205, Idaho Code, be, and the same is hereby amended to read as follows:

33-1205. CERTIFICATE RECORDS AND FEES. (1) The state board of education shall cause to be maintained a record of all certificates issued, showing names, dates of issue and renewal, and if revoked, the date thereof and the reason therefor. A nonrefundable fee shall accompany each application for a prekindergarten through grade twelve (12) certificate, alternate certificate, change in certificate or replacement as follows:

~~(a) Original certificate, all types, issued for five (5) years~~  
..... \$ 75.00

- ~~(b) Renewal certificate, all types, issued for five (5) years .. \$ 75.00~~
- ~~(c) Alternate route certificate, all types, issued for one (1) year .. \$100.00~~
- ~~(d) Additions or changes during the life of an existing certificate .. \$ 25.00~~
- ~~(e) To replace an existing certificate ..... \$ 10.00~~

(2) ~~The fees specified in subsection (1) of this section shall be in effect through December 31, 2004. On and after January 1, 2005, cCertificate and related fees shall be as specified by rule of the state board of education.~~

(3) ~~The fees shall be used by the professional standards commission state department of education for payment of the reasonable expenses of the professional standards commission in performing its duties and responsibilities as approved by the state board of education and not more than thirty-three percent (33%) of the fees may be used by the state department of education to partially defray the cost of the office of certification to sustain certification, program approvals, ethics reviews and standards reviews.~~

Approved March 4, 2015

CHAPTER 24  
(S.B. No. 1028)

AN ACT

RELATING TO SPEED LIMITS; AMENDING SECTION 49-654, IDAHO CODE, TO PROVIDE FOR CERTAIN SPEED LIMITS ON INTERSTATE HIGHWAYS AND STATE HIGHWAYS UNLESS OTHERWISE POSTED.

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

SECTION 1. That Section 49-654, Idaho Code, be, and the same is hereby amended to read as follows:

49-654. BASIC RULE AND MAXIMUM SPEED LIMITS. (1) No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Consistent with the foregoing, every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hillcrest, when traveling upon any narrow or winding highway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(2) Where no special hazard or condition exists that requires lower speed for compliance with subsection (1) of this section the limits as hereinafter authorized shall be maximum lawful speeds, and no person shall drive a vehicle at a speed in excess of the maximum limits:

- (a) Thirty-five (35) miles per hour in any residential, business or urban district, unless otherwise posted in accordance with section 49-207(2) or (3), Idaho Code;
- (b) Seventy-five (75) miles per hour on interstate highways, unless otherwise posted in accordance with section 49-201(4), Idaho Code, and provided that this speed may be increased to eighty (80) miles per hour if the department completes an engineering and traffic study on the interstate highway and concludes that the increase is in the public interest and the transportation board concurs with such conclusion;
- (c) Sixty-five (65) miles per hour on state highways, unless otherwise posted in accordance with section 49-201(4), Idaho Code, and provided

that this speed may be increased to seventy (70) miles per hour if the department completes an engineering and traffic study on the state highway and concludes that the increase is in the public interest and the transportation board concurs with such conclusion;

(d) Fifty-five (55) miles per hour in other locations unless otherwise posted up to a maximum of seventy (70) miles per hour.

(3) For vehicles with five (5) or more axles operating at a gross weight of more than twenty-six thousand (26,000) pounds the maximum lawful speed limit on interstate highways in nonurban areas shall not exceed ten (10) miles per hour less for vehicles with less than five (5) axles and operating at a gross weight of twenty-six thousand (26,000) pounds or less, and in urban areas the maximum lawful speed limit on interstate highways for such vehicles shall not exceed sixty-five (65) miles per hour.

Approved March 4, 2015

CHAPTER 25  
(H.B. No. 4)

AN ACT

RELATING TO CONTROLLED SUBSTANCES; AMENDING SECTION 37-2701, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 37-2716, IDAHO CODE, TO REVISE LANGUAGE RELATING TO REGISTRATION REQUIREMENTS, TO PROVIDE AN EXEMPTION AND TO PERMIT FEDERAL REGISTRANTS TO CONDUCT RESEARCH; AMENDING SECTION 37-2717, IDAHO CODE, TO REVISE LANGUAGE RELATING TO REGISTRATION, TO ALLOW CONSIDERATION OF FEDERAL REGISTRATION RESTRICTIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 37-2718, IDAHO CODE, TO PROVIDE THE BOARD WITH ADDITIONAL DISCIPLINARY OPTIONS AND AUTHORITY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 37-2719, IDAHO CODE, TO ADD RESTRICTION TO ACTIONS THAT REQUIRE AN ORDER TO SHOW CAUSE AND TO REVISE THE FINING AUTHORITY OF THE BOARD; AND AMENDING SECTION 37-2720, IDAHO CODE, TO REMOVE LANGUAGE RELATING TO RECORDS OF REGISTRANTS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 37-2701, Idaho Code, be, and the same is hereby amended to read as follows:

37-2701. DEFINITIONS. As used in this chapter:

(a) "Administer" means the direct application of a controlled substance whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

- (1) A practitioner or, in his presence, by his authorized agent; or
- (2) The patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser. It does not include a common or contract carrier, public warehouseman or employee of the carrier or warehouseman.

(c) "Board" means the state board of pharmacy created in chapter 17, title 54, Idaho Code, or its successor agency.

(d) "Bureau" means the drug enforcement administration, United States department of justice, or its successor agency.

(e) "Controlled substance" means a drug, substance or immediate precursor in schedules I through VI of article II of this chapter.

(f) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark,

trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the substance.

(g) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one (1) person to another of a controlled substance, whether or not there is an agency relationship.

(h) "Director" means the director of the Idaho state police.

(i) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the ~~prescribing, administering,~~ packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(j) "Dispenser" means a practitioner who dispenses.

(k) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(l) "Distributor" means a person who distributes.

(m) "Drug" means (1) substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; (2) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals; (3) substances, other than food, intended to affect the structure or any function of the body of man or animals; and (4) substances intended for use as a component of any article specified in clause (1), (2), or (3) of this subsection. It does not include devices or their components, parts, or accessories.

(n) "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter. It includes, but is not limited to:

(1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

(3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

(4) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;

(5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;

(7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

(8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(9) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

(10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;

(11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;

(12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

(i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(ii) Water pipes;

(iii) Carburetion tubes and devices;

(iv) Smoking and carburetion masks;

(v) Roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

(vi) Miniature cocaine spoons, and cocaine vials;

(vii) Chamber pipes;

(viii) Carburetor pipes;

(ix) Electric pipes;

(x) Air-driven pipes;

(xi) Chillums;

(xii) Bongs;

(xiii) Ice pipes or chillers;

In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or by anyone in control of the object concerning its use;

2. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;

3. The proximity of the object, in time and space, to a direct violation of this chapter;

4. The proximity of the object to controlled substances;

5. The existence of any residue of controlled substances on the object;

6. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this chapter shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;

7. Instructions, oral or written, provided with the object concerning its use;

8. Descriptive materials accompanying the object which explain or depict its use;

9. National and local advertising concerning its use;

10. The manner in which the object is displayed for sale;

11. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

12. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;

13. The existence and scope of legitimate uses for the object in the community;

14. Expert testimony concerning its use.



(o) "Financial institution" means any bank, trust company, savings and loan association, savings bank, mutual savings bank, credit union, or loan company under the jurisdiction of the state or under the jurisdiction of an agency of the United States.

(p) "Immediate precursor" means a substance which the board has found to be and by rule designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

(q) "Isomer" means the optical isomer, except as used in section 37-2705(d), Idaho Code.

(r) "Law enforcement agency" means a governmental unit of one (1) or more persons employed full-time or part-time by the state or a political subdivision of the state for the purpose of preventing and detecting crime and enforcing state laws or local ordinances, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority.

(s) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, and includes extraction, directly or indirectly, from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance:

(1) By a practitioner as an incident to his administering, ~~or dispensing or, as authorized by board rule, distributing~~ of a controlled substance in the course of his professional practice; or

(2) By a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for delivery.

(t) "Marijuana" means all parts of the plant of the genus Cannabis, regardless of species, and whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin. It does not include the mature stalks of the plant unless the same are intermixed with prohibited parts thereof, fiber produced from the stalks, oil or cake made from the seeds or the achene of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom or where the same are intermixed with prohibited parts of such plant, fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination. Evidence that any plant material or the resin or any derivative thereof, regardless of form, contains any of the chemical substances classified as tetrahydrocannabinols shall create a presumption that such material is "marijuana" as defined and prohibited herein.

(u) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause 1, but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation

thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(v) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under section 37-2702, Idaho Code, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(w) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

(x) "Peace officer" means any duly appointed officer or agent of a law enforcement agency, as defined herein, including, but not limited to, a duly appointed investigator or agent of the Idaho state police, an officer or employee of the board of pharmacy, who is authorized by the board to enforce this chapter, an officer of the Idaho state police, a sheriff or deputy sheriff of a county, or a marshal or policeman of any city.

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

(z) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(aa) "Practitioner" means:

(1) A physician, dentist, veterinarian, scientific investigator, or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of his professional practice or research in this state;

(2) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of its professional practice or research in this state.

(bb) "Prescribe" means a direction or authorization permitting an ultimate user to lawfully obtain or be administered controlled substances.

(cc) "Prescriber" means an individual currently licensed, registered or otherwise authorized to prescribe and administer controlled substances in the course of professional practice.

(eedd) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(edee) "Simulated controlled substance" means a substance that is not a controlled substance, but which by appearance or representation would lead a reasonable person to believe that the substance is a controlled substance. Appearance includes, but is not limited to, color, shape, size, and markings of the dosage unit. Representation includes, but is not limited to, representations or factors of the following nature:

(1) Statements made by an owner or by anyone else in control of the substance concerning the nature of the substance, or its use or effect;

(2) Statements made to the recipient that the substance may be resold for inordinate profit; or

(3) Whether the substance is packaged in a manner normally used for illicit controlled substances.

(eeff) "State," when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America.

(ffgg) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

(gghh) "Utility" means any person, association, partnership or corporation providing telephone and/or communication services, electricity, natural gas or water to the public.

SECTION 2. That Section 37-2716, Idaho Code, be, and the same is hereby amended to read as follows:

37-2716. REGISTRATION REQUIREMENTS. (a) Every person who manufactures, distributes, ~~or prescribes, administers, dispenses, or conducts research with~~ any controlled substance within this state ~~or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state, must~~ shall obtain annually a registration issued by the board in accordance with this chapter and its rules. A copy of each registration issued shall be transmitted by the board to the director of the Idaho state police.

(b) Every prescriber, except veterinarians, ~~must annually~~ shall also register with the board to obtain online access to the controlled substances prescriptions database. Such registration shall be completed upon renewal ~~for existing controlled substance registrants and at the time of registration for first-time registrants.~~

(c) Persons registered by the board under this chapter ~~to manufacture, distribute, dispense, or conduct research with controlled substances~~ may possess, manufacture, distribute, dispense, prescribe, administer, or conduct research with those substances to the extent authorized by their registration and licensing entity and in conformity with the other provisions of this ~~article~~ chapter.

(d) The following persons need not register and may lawfully possess controlled substances under this chapter:

(1) An agent or employee of any person registered ~~manufacturer, distributor, or dispenser of any controlled substance pursuant to this chapter,~~ if he is acting in the usual course of his business or employment;

(2) A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment;

(3) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a schedule V substance.

(e) The board may waive by rule the requirement for registration of certain ~~manufacturers, distributors, or dispensers~~ persons if it finds it consistent with the public health and safety.

(f) A separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes, ~~or administers, dispenses, or conducts research with~~ controlled substances, except a separate registration is not required under this chapter for practitioners engaging in research with nonnarcotic controlled substances in schedules II through IV where the practitioner is already registered under this chapter in another capacity.

(g) Practitioners registered under federal law to conduct research with schedule I substances may conduct research with schedule I substances within this state upon registering in Idaho and furnishing the board with evidence of the practitioner's federal registration.

(h) The board may inspect the establishment of a registrant or applicant for registration in accordance with the this chapter and board rule.

SECTION 3. That Section 37-2717, Idaho Code, be, and the same is hereby amended to read as follows:

37-2717. REGISTRATION. ~~(a)~~ The board shall register an applicant to manufacture, ~~or prescribe, administer, dispense, distribute or conduct research with~~ controlled substances included in sections 37-2705, 37-2707, 37-2709, 37-2711 and 37-2713, Idaho Code, unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the board shall consider the following factors:

(1a) ~~m~~Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;

(2b) ~~e~~Compliance with applicable state and local law;

(3c) ~~a~~Any convictions of the applicant under any federal and state laws relating to any controlled substance;

(4d) ~~p~~Past experience in the manufacture, dispensing, prescribing, administering, research or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversions;

(5e) ~~f~~Furnishing by the applicant of false or fraudulent material in any application filed under this act ~~chapter~~;

(6f) ~~R~~Restriction, suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law; and

(7g) ~~a~~Any other factors relevant to and consistent with the public health and safety.

~~(b) Registration under subsection (a) of this section does not entitle a registrant to manufacture and distribute controlled substances in schedule I or II other than those specified in the registration.~~

~~(c) Practitioners must be registered to dispense any controlled substances or to conduct research with controlled substances in schedules II through V if they are authorized to dispense or conduct research under the law of this state. The board need not require separate registration under this article for practitioners engaging in research with nonnarcotic controlled substances in schedules II through V where the registrant is already registered under this article in another capacity. Practitioners registered under federal law to conduct research with schedule I substances may conduct research with schedule I substances within this state upon furnishing the board evidence of that federal registration.~~

~~(d) Compliance by manufacturers and distributors with the provisions of the federal law respecting registration (excluding fees) entitles them to be registered under this act.~~

SECTION 4. That Section 37-2718, Idaho Code, be, and the same is hereby amended to read as follows:

37-2718. ~~REVOCAION AND SUSPENSION OF REGISTRATION~~ DISCIPLINE. (a) A registration under section 37-2717, Idaho Code, ~~to manufacture, distribute, or dispense a controlled substance may be~~ restricted, suspended or revoked by the board upon a finding that the registrant:

(1) Has furnished false or fraudulent material information in any application filed under this act;

(2) Has been found guilty of a felony or misdemeanor under any state or federal law relating to any controlled substance; or

(3) Has had his federal registration restricted, suspended or revoked ~~to manufacture, distribute, or dispense controlled substances~~;

(4) Has violated this chapter, any rule of the board promulgated under ~~this chapter act~~, an order of the board or any federal regulation relat-

ing to controlled substances; provided, however, that no restriction, revocation or suspension procedure be initiated under this paragraph without the board first giving notice of the procedure to the state licensing board with authority over the registrant's professional license.

(b) The notice required in paragraph subsection (a) (4) of this section shall be given immediately in the event action is taken without an order to show cause as allowed under section 37-2719(b), Idaho Code. In all other cases, such notice shall be given as early as reasonably practicable without risking compromise of the board's investigation but no later than the earlier of:

(1) Issuance of an order to show cause under section 37-2719(a), Idaho Code; or

(2) Setting of a hearing for approval of a resolution of the matter through informal proceedings.

(c) Restriction, revocation or suspension procedures arising solely from "practice related issues" shall be referred by the board to such registrant's state licensing board.

(1) Upon such referral, the registrant's state licensing board shall commence such investigation of the referred matter as it deems necessary and shall take action upon the registrant's license or shall inform the board of pharmacy, in writing, that it has investigated the referred matter and has concluded that no action is necessary.

(2) For purposes of this section, the term "practice related issues" refers to issues involving questions regarding the professional conduct of the registrant within the scope of the registrant's profession.

(d) The board may limit the revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.

(e) If the board restricts, suspends or revokes a registration, all pertinent controlled substances owned or possessed by the registrant at the time of the restriction or suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances may be forfeited to the state.

(f) The board shall promptly notify the bureau and the state licensing board with authority over the registrant's professional license of all orders restricting, suspending or revoking registration and all forfeitures of controlled substances.

(g) In the event a state licensing board with authority over a registrant's professional license takes an action against the registrant in any fashion which suspends, restricts, limits or affects the registrant's ability to manufacture, distribute, ~~or~~ prescribe, administer, dispense, or conduct research with any controlled substance, the professional licensing board shall promptly notify the board of pharmacy of the action.

(1) Upon such action, the board of pharmacy shall be authorized to issue its order suspending, restricting, limiting or otherwise affecting the registrant's controlled substance registration in the same fashion as the professional licensing board action.

(2) The board of pharmacy order may be issued without further hearing or proceeding, but shall be subject to the effect of any reversal or modification of the professional licensing board action by reason of any appeal or rehearing.

SECTION 5. That Section 37-2719, Idaho Code, be, and the same is hereby amended to read as follows:

37-2719. ORDER TO SHOW CAUSE. (a) Except as set forth in section 37-2718(g), Idaho Code, before denying, restricting, suspending or revoking a registration, or refusing a renewal of registration, the board shall serve upon the applicant or registrant an order to show cause why the registration should ~~not~~ be restricted, denied, revoked, or suspended, or why the renewal should ~~not~~ be refused. The order to show cause shall contain a statement of the basis therefor and shall call upon the applicant or registrant to appear before the board at a time and place not less than thirty (30) days after the date of service of the order, but in the case of a denial or renewal of registration the show cause order shall be served not later than thirty (30) days before the expiration of the registration. These proceedings shall be conducted in accordance with chapter 52, title 67, Idaho Code, without regard to any criminal prosecution or other proceeding. Proceedings to refuse renewal of registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing.

(b) The board may suspend, without an order to show cause, any registration simultaneously with the institution of proceedings under section 37-2718, Idaho Code, or where renewal of registration is refused, if it finds that there is an imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the board or dissolved by a court of competent jurisdiction.

(c) In conjunction with a proceeding for denying, restricting, suspending or revoking a registration, or refusing a renewal of registration, and upon a finding of grounds for such denial, restriction, suspension, revocation or refusal to renew, the board may also impose an administrative fine not to exceed two thousand dollars (\$2,000) per occurrence and the costs of prosecution and administrative costs of bringing the action including, but not limited to, attorney's fees and costs and costs of hearing transcripts.

SECTION 6. That Section 37-2720, Idaho Code, be, and the same is hereby amended to read as follows:

37-2720. RECORDS OF REGISTRANTS. Persons registered ~~to manufacture, distribute, or dispense controlled substances under this act~~ chapter shall keep records and maintain inventories in conformance with the ~~record-keeping~~ recordkeeping and inventory requirements of federal law and with any additional rules the board issues.

Approved March 5, 2015

CHAPTER 26  
(H.B. No. 6)

## AN ACT

RELATING TO PRESCRIPTION DRUGS; AMENDING SECTION 54-1733, IDAHO CODE, TO PROVIDE THAT PRESCRIPTION DRUG ORDERS ARE VALID ONLY IF ISSUED BY A PRESCRIBER UNDER CERTAIN CIRCUMSTANCES, TO REMOVE LANGUAGE RELATING TO TRANSMISSION OF PRESCRIPTION DRUG ORDERS AND TO PROVIDE THAT CERTAIN ACTS ARE UNLAWFUL AND CONSTITUTE UNPROFESSIONAL CONDUCT; AND AMENDING CHAPTER 17, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1733A, IDAHO CODE, TO PROVIDE THAT PRESCRIPTION DRUG ORDERS MAY BE TRANSMITTED IN CERTAIN WAYS.

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~~ A prescription drug order for a legend drug is ~~not valid unless only if~~ issued by a prescriber 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.

(2) A prescriber who is otherwise authorized to perform any of the activities listed herein may prescribe or perform any of the following activities for a patient with whom the prescriber does not have a prescriber-patient relationship under the following circumstances:

- (a) Writing initial admission orders for a newly hospitalized patient;
- (b) Writing a prescription drug order for a patient of another prescriber for whom the prescriber is taking call;
- (c) Writing a prescription drug order 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 drug order for a medication on a short-term basis for a new patient prior to the patient's first appointment;
- (e) In emergency situations where the life or health of the patient is in imminent danger;
- (f) In emergencies that constitute an immediate threat to the public health including, but not limited to, empiric treatment or prophylaxis to prevent or control an infectious disease outbreak;
- (g) Epinephrine auto-injectors in the name of a school pursuant to section 33-520A, Idaho Code; and
- (h) If a prescriber makes a diagnosis of a sexually transmitted disease in a patient, the prescriber may prescribe or dispense antibiotics to the infected patient's named sexual partner or partners for treatment of the sexually transmitted disease as recommended by the most current centers for disease control and prevention (CDC) guidelines.

(3) 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.

~~(4) A prescription drug order may shall only be issued either:~~

- ~~(a) Bby a practitioner acting in the usual course of his profession; or~~
- ~~(b) By prescriber including a physician, dentist, veterinarian, scientific investigator or other person, other than a pharmacist, prescriber 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 prescribe legend drugs in the course of his professional practice or research in such jurisdiction, so long as the individual is acting within the jurisdiction, scope and authority of his license when issuing the prescription drug order.~~

~~(c) The prescription drug order may be signed and sent electronically pursuant to chapter 50, title 28, Idaho Code.~~

~~(d) Transmission of prescription drug order. In addition to delivery of the original signed written prescription drug order to a licensed pharmacy:~~

~~(i) A prescription drug order that has been signed by the practitioner may be received by a licensed pharmacy for dispensing purposes through a facsimile transmission from the prescribing practitioner or the practitioner's agent, or from an institutional facility for a patient or resident in such facility;~~

~~(ii) A prescription drug order may also be received by a licensed pharmacist verbally from the practitioner, the practitioner's agent or from a licensed practical nurse or licensed professional nurse in an institutional facility for a patient or resident in such facility;~~

~~(iii) A prescription drug order received verbally from the practitioner by a licensed practical nurse or licensed professional nurse in a licensed institutional facility for a patient or resident in such facility may also be sent by facsimile transmission from the institutional facility to a licensed pharmacy for dispensing purposes provided the transmitted document includes the name of the prescriber issuing the prescription drug order, the name of the nurse who transcribed the order and the name of the person who sent the facsimile.~~

~~(e) In the event that there are no refills remaining on an existing prescription drug order, and the pharmacist requests a new prescription drug order from the practitioner, the practitioner's agent, after obtaining practitioner authorization, may sign and return the request via facsimile so long as:~~

~~(i) The request is generated from the pharmacy;~~

~~(ii) The request is for medication that the patient is currently taking;~~

~~(iii) There are no changes to the type of drug, its strength or directions for the continuation of therapy;~~

~~(iv) The practitioner's agent's transmission is received via facsimile from the practitioner's office; and~~

~~(v) The request, which is subsequently transmitted back to the requesting pharmacy by the practitioner's agent, contains all components of a valid prescription drug order.~~

~~(2) It is unlawful for a practitioner to knowingly issue an invalid prescription drug order for a legend drug.~~

~~(3) It is unlawful for a pharmacist or veterinarian to knowingly fill an invalid prescription drug order for a legend drug.~~

~~(4) A prescriber who is otherwise authorized to perform any of the activities listed in this subsection may prescribe or perform any of the following activities for a patient with whom the prescriber does not have a prescriber-patient relationship under the following circumstances:~~

~~(a) Writing initial admission orders for a newly hospitalized patient;~~

~~(b) Writing a prescription for a patient of another prescriber for whom the prescriber is taking call;~~

~~(c) Writing a prescription for a patient examined by a physician assistant, advanced practice registered nurse or other licensed practitioner with whom the prescriber has a supervisory or collaborative relationship;~~



- ~~(d) Writing a prescription for medication on a short-term basis for a new patient prior to the patient's first appointment;~~
- ~~(e) In emergency situations where life or health of the patient is in imminent danger;~~
- ~~(f) In emergencies that constitute an immediate threat to the public health including, but not limited to, empiric treatment or prophylaxis to prevent or control an infectious disease outbreak;~~
- ~~(g) Epinephrine auto-injectors in the name of a school pursuant to section 33-520A, Idaho Code;~~
- ~~(h) If a prescriber makes a diagnosis of a sexually transmitted disease in a patient, the prescriber may prescribe or dispense antibiotics to the infected patient's named sexual partner or partners for treatment of the sexually transmitted disease as recommended by the most current centers for disease control and prevention (CDC) guidelines.~~

(5) Prescribing The following acts shall be unlawful:

- (a) To knowingly issue an invalid prescription drug order for a legend drug;
- (b) To knowingly dispense a legend drug pursuant to an invalid prescription drug order; or
- (c) To prescribe drugs to individuals without a prescriber-patient relationship, and not in accordance with unless excepted in this section.

Such acts shall be constitute unprofessional conduct and the prescriber or dispenser shall be subject to discipline according to the provisions of the Idaho Code chapter pursuant to which the prescriber or dispenser is licensed, certified or registered.

SECTION 2. That Chapter 17, 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 54-1733A, Idaho Code, and to read as follows:

54-1733A. TRANSMISSION OF PRESCRIPTION DRUG ORDERS. (1) A valid prescription drug order may be transmitted to a licensed pharmacy by the following means:

- (a) By delivery of the original signed written prescription drug order;
- (b) Electronically by the prescriber or prescriber's agent in compliance with the uniform electronic transactions act, chapter 50, title 28, Idaho Code;
- (c) Electronically by a licensed practical or professional nurse in an institutional facility for a patient of that facility via a secure, interoperable information technology system that exchanges data accurately, effectively and in compliance with applicable laws;
- (d) Verbally by the prescriber, prescriber's agent, or a licensed practical or professional nurse for a patient of an institutional facility or for a hospice patient; and
- (e) Via facsimile by a prescriber, prescriber's agent, institutional facility or hospice agent, provided that if the order was initially received verbally, the transmitted document shall include the name of the prescriber, the name of the licensed practical or professional nurse who received and transcribed the order and the name of the person who faxed the order.

(2) 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 prescriber, the prescriber's agent, after obtaining prescriber authorization, may sign and return the request via facsimile so long as:

- (a) The request is generated from the pharmacy;
- (b) The request is for medication that the patient is currently taking;
- (c) There are no changes to the type of drug, its strength or directions for the continuation of therapy;

(d) The prescriber's agent's transmission is received via facsimile from the prescriber's office; and

(e) The request, which is subsequently transmitted back to the requesting pharmacy by the prescriber's agent, contains all components of a valid prescription drug order.

Approved March 5, 2015

CHAPTER 27  
(H.B. No. 7)

AN ACT

RELATING TO CONTROLLED SUBSTANCES; AMENDING SECTION 37-2726, IDAHO CODE, TO CLARIFY THAT AN ORDER FOR THE RELEASE OF PRESCRIPTION MONITORING PROGRAM RECORDS MUST BE ISSUED BY A JUDGE.

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

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

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

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

(a) Authorized individuals employed by Idaho's boards or other states' licensing entities charged with the licensing and discipline of practitioners;

(b) Peace officers employed by federal, state and local law enforcement agencies engaged as a specified duty of their employment in enforcing law regulating controlled substances;

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

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

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

(f) An individual who is the recipient of a dispensed controlled substance entered into the database may access records that pertain to that individual, upon the production of positive identification, or that in-

dividual's designee upon production of a notarized release of information by that individual;

(g) Upon the a lawful order of issued by the presiding judge in a court of competent jurisdiction for the release of prescription monitoring program records of a named individual; and

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

(3) The board shall require prescribers, except veterinarians, to annually register with the board to obtain online access to the controlled substances prescriptions database.

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

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

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

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

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

(6) 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.

(7) 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.

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

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

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

Approved March 5, 2015

CHAPTER 28  
(H.B. No. 8)

AN ACT

RELATING TO PHARMACISTS; AMENDING SECTION 54-1705, IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1732, IDAHO CODE, TO PROHIBIT WHOLESALE DISTRIBUTION OF DRUGS OR DEVICES BY PHARMACIES, WITH CERTAIN EXCEPTIONS AND TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTION 54-1734, IDAHO CODE, TO PROVIDE THAT CERTAIN PERSONS MAY POSSESS LEGEND DRUGS; AMENDING SECTION 54-1735, IDAHO CODE, TO PROVIDE THAT PHARMACISTS KEEP PATIENT RECORDS; AMENDING SECTION 54-1752, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 54-1753, IDAHO CODE, TO REVISE AND CLARIFY LICENSURE REQUIREMENTS, TO REQUIRE THAT WHOLESALE DISTRIBUTORS MONITOR AND IDENTIFY CERTAIN DRUG ORDERS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1754, IDAHO CODE, TO REMOVE LANGUAGE RELATING TO RETURNS OR EXCHANGES OF PRESCRIPTION DRUGS AND TO PROHIBIT CERTAIN WHOLESALE DISTRIBUTIONS; AMENDING SECTION 54-1758, IDAHO CODE, TO REMOVE LANGUAGE RELATING TO PROHIBITED ACTS, TO PROVIDE CORRECT CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 54-1755, IDAHO CODE, RELATING TO PEDIGREE; REPEALING SECTION 54-1756, IDAHO CODE, RELATING TO ENFORCEMENT ORDERS; AND AMENDING SECTIONS 37-3201, 54-1759, 54-1761, 54-4702 AND 54-5110, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES.

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

SECTION 1. That Section 54-1705, Idaho Code, be, and the same is hereby amended to read as follows:

54-1705. DEFINITIONS. In this chapter:

(1) "Board of pharmacy" or "board" means the Idaho state board of pharmacy.

(2) "Central drug outlet" means a resident or nonresident pharmacy, drug outlet, or business entity employing or contracting pharmacists to perform centralized pharmacy services.

(3) "Central pharmacist" means a pharmacist performing centralized pharmacy services.

(4) "Centralized pharmacy services" means the processing by a central drug outlet or central pharmacist of a request from another pharmacy to fill, refill, or dispense a prescription drug order, perform processing functions or provide cognitive or pharmaceutical care services. Each function may be performed by the same or different persons and at the same or different locations.

(5) "Compounding" means the act of ~~incorporating two (2) or more substances to create practice in which a pharmacist, a prescriber, or, in the case of an outsourcing facility, a person under the supervision of a pharmacist, combines, mixes or alters ingredients of a finished drug product to create a medication tailored to the needs of an individual patient.~~

(6) "Counseling" or "counsel" means the effective communication by the pharmacist of information as set out in this chapter, to the patient or caregiver, in order to improve therapeutic outcomes by maximizing proper use of prescription drugs and devices. Specific areas of counseling shall include, but are not limited to:

- (a) Name and strength and description of the drug;
- (b) Route of administration, dosage, dosage form, continuity of therapy and refill information;
- (c) Special directions and precautions for preparation, administration, storage and use by the patient as deemed necessary by the pharmacist;
- (d) Side effects or adverse effects and interactions and therapeutic contraindications that may be encountered, including their avoidance, which may interfere with the proper use of the drug or device as was intended by the prescriber, and the action required if they occur;
- (e) Techniques for self-monitoring drug therapy; and
- (f) Action to be taken in the event of a missed dose.

(7) "Deliver" or "delivery" means the actual, constructive or attempted transfer of a drug or device from one (1) person to another, whether or not for a consideration.

(8) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar related article including any component part or accessory which is:

- (a) Recognized in the official United States Pharmacopoeia or official National Formulary, other drug compendia or any supplement to them;
- (b) Intended for use in the diagnosis of disease or other conditions, or the cure, mitigation, treatment or prevention of disease in man or other animal;
- (c) Intended to affect the structure or any function of the body of man or other animal, and which does not achieve any of its principal intended purposes through chemical action within or on the body of man or other animal, and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes.

(9) "Dispense" or "dispensing" means the preparation and delivery of a drug pursuant to a lawful prescription drug order of a practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription.

(10) "Distribute" means the delivery of a drug other than by administering or dispensing.

(11) "Drug" means:

- (a) Articles recognized as drugs in the official United States Pharmacopoeia, official National Formulary, official Homeopathic Pharmacopoeia, other drug compendia or any supplement to any of them;
- (b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animal;
- (c) Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and
- (d) Articles intended for use as a component of any articles specified in paragraph (a), (b) or (c) of this subsection.

(12) "Drug order" means a prescription drug order issued in the unique form and manner permitted for a patient or resident of an institutional facility or as permitted for other purposes as defined in rules. Unless specifically differentiated, state law applicable to a prescription drug order is also applicable to a drug order.

(13) "Drug outlets" means all resident or nonresident pharmacies, business entities and other facilities where employees or personnel are engaged in the practice of pharmacy, in the provision of pharmaceutical care, or in the dispensing, delivering, distributing or manufacturing of drugs or devices in or into Idaho.

(14) "Extern" means a bona fide student enrolled in an approved school or college of pharmacy who has not received his first professional degree in pharmacy.

(15) "Externship" means a structured practical experience program in pharmacy administered by a school or college of pharmacy.

(16) "Institutional facility" means a facility for which its primary purpose is to provide a physical environment for patients to obtain health care services and in which patients spend a majority of their time, as may be further defined by board rules.

(17) "Intern" means any person who has completed a course of study at an approved school or college of pharmacy, received the first professional degree in pharmacy and is registered with the board as a pharmacist intern. Interns must register with the board prior to commencement of an internship program.

(18) "Internship" means a postgraduate practical experience program under the supervision of a preceptor.

(19) "Investigational or new drug" means any drug which is limited by state or federal law to use under professional supervision of a practitioner authorized by law to prescribe or administer such drug.

(20) "Labeling" means the process of preparing and affixing of a label to any drug container, exclusive however, of the labeling by a manufacturer, packer or distributor of a nonprescription drug or commercially packaged legend drug or device. Any such label shall include all information required by federal and state law.

(21) "Limited service outlet" means a resident or nonresident facility or business entity that is subject to registration by the board, pursuant to section 54-1729, Idaho Code, and has employees or personnel engaged in the practice of pharmacy, in the provision of pharmaceutical care, or in the dispensing, delivering, distributing or manufacturing of drugs or devices but is not a retail pharmacy, institutional facility, manufacturer, wholesaler, veterinary drug outlet, nonresident central drug outlet or mail service pharmacy.

(22) "Mail service pharmacy" means a nonresident pharmacy that ships, mails or delivers by any lawful means a dispensed legend drug to residents in this state pursuant to a legally issued prescription drug order and ensures the provision of corresponding related pharmaceutical care services required by law.

(23) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a device or a drug, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a drug by an individual for his own use or the preparation, compounding, packaging or labeling of a drug:

(a) By a pharmacist or practitioner as an incident to his administering, dispensing or, as authorized by board rule, distributing of a drug in the course of his professional practice; or

(b) By a practitioner or by his authorization under his supervision for the purpose of or as an incident to research, teaching or chemical analysis and not for sale.

(24) "Manufacturer" means a person who by compounding, cultivating, harvesting, mixing or other process, produces or prepares legend drugs, and includes persons who prepare such drugs in dosage forms by mixing, compounding, encapsulating, entableting, or other process, or who packages or repackages such drugs, but does not include pharmacists or practitioners in the practice of their profession.

(25) "Nonprescription drugs" means medicines or drugs which may be sold without a prescription drug order and which are prepackaged for use by the consumer and labeled in accordance with state and federal law.

(26) "Nonresident" means a person or business entity located in the District of Columbia or a state other than Idaho that practices pharmacy including, but not limited to, pharmaceutical care services into Idaho.

(27) "Outsourcing facility" means a facility that is registered by the United States food and drug administration pursuant to 21 U.S.C. section 353b and either registered or endorsed by the board.

(28) "Person" means an individual, corporation, partnership, association or any other legal entity.

(289) "Pharmaceutical care" means drug therapy and other pharmaceutical patient care services intended to achieve outcomes related to the cure or prevention of a disease, elimination or reduction of a patient's symptoms, or arresting or slowing of a disease process as defined in the rules of the board.

(2930) "Pharmacist" means an individual licensed by this state to engage in the practice of pharmacy or a pharmacist registered by this state who is located in another state or the District of Columbia and is engaged in the practice of pharmacy into Idaho, unless exempted.

(301) "Pharmacist-in-charge" (PIC) means a pharmacist whose qualifications, responsibilities and reporting requirements are defined in rule.

(312) "Pharmacy" means any facility, department or other place where prescription drug orders are filled or compounded and prescriptions are sold, dispensed, offered or displayed for sale, which has, as its principal purpose, the dispensing of drug and health supplies intended for the general health, welfare and safety of the public.

(323) "Practitioner" means a person licensed in this state and permitted by such license to dispense, conduct research with respect to or administer drugs in the course of professional practice or research in this state.

(334) "Precursor" means a substance, other than a legend drug, which is an immediate chemical intermediate that can be processed or synthesized into a legend drug, and is used or produced primarily for use in the manufacture of a legend drug by persons other than persons licensed to manufacture such legend drugs by the Idaho board of pharmacy, registered by the state board of health and welfare, or licensed to practice pharmacy by the Idaho board of pharmacy.

(345) "Preceptor" means a pharmacist licensed and in good standing who supervises the internship or externship training of a registered student pharmacist. The preceptor shall be actively engaged in the practice of pharmacy on a full-time employment basis.

(356) "Prescriber" means an individual currently licensed, registered or otherwise authorized to prescribe and administer drugs in the course of professional practice.

(367) "Prescription drug or legend drug" means a drug ~~which~~ that under federal law is required, prior to being dispensed or delivered, to be labeled with one (1) of the following statements:

- (a) "Caution: Federal law prohibits dispensing without a prescription"; or
- (b) "Rx Only"; or
- (c) "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian";

or a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription drug order only or is restricted to use by practitioners only.

(378) "Prescription drug order" means a valid order of a practitioner for a drug or device for an ultimate user of the drug or device.

(389) "Prospective drug review" includes, but is not limited to, the following activities:

- (a) Evaluation of the prescription drug order for:
  - (i) Known allergies;
  - (ii) Rational therapy contraindications;
  - (iii) Reasonable dose and route of administration; and
  - (iv) Reasonable directions for use.
- (b) Evaluation of the prescription drug order for duplication of therapy.
- (c) Evaluation of the prescription drug order for interactions:
  - (i) Drug-drug;
  - (ii) Drug-food; and
  - (iii) Drug-disease.
- (d) Evaluation of the prescription drug order for proper utilization:
  - (i) Over or under utilization; and
  - (ii) Abuse/misuse.

(3940) "Record" means all papers, letters, memoranda, notes, prescriptions, drug orders, invoices, statements, patient medication charts or files, computerized records or other written indicia, documents or objects which are used in any way in connection with the purchase, sale or handling of any drug or device.

(401) "Sale" means every sale and includes:

- (a) Manufacturing, processing, transporting, handling, packaging or any other production, preparation or repackaging;
- (b) Exposure, offer, or any other proffer;
- (c) Holding, storing or any other possession;
- (d) Dispensing, giving, delivering or any other supplying; and
- (e) Applying, administering or any other usage.

~~(412) "Warehouseman" means a person who stores legend drugs for others and who has no control over the disposition of such drugs except for the purpose of such storage~~ "Ultimate user" means a person who lawfully possesses a drug for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

~~(423) "Wholesaler" means a person engaged who in the usual course of business of distributing legend lawfully distributes drugs that he himself has not produced or prepared, devices in or into Idaho to persons included in any of other than the classes named in subsection (2) (a) through (f) of section 54-1734, Idaho Code~~ ultimate user.

SECTION 2. That Section 54-1732, Idaho Code, be, and the same is hereby amended to read as follows:

54-1732. VIOLATIONS AND PENALTIES. (1) No drug outlet designated in section 54-1729, Idaho Code, shall be operated until a certificate of registration has been issued to said facility by the board. Upon the finding of a violation of this subsection, the board may impose one (1) or more of the penalties enumerated in section 54-1728, Idaho Code.

(2) Reinstatement of a certificate that has been suspended, revoked or restricted by the board may be granted in accordance with the procedures specified in section 54-1728(6), Idaho Code.

(3) The following acts, or the failure to act, and the causing of any such act or failure are unlawful:

(a) The sale, delivery or administration of any prescription drug or legend drug unless:

- (i) Such legend drug is dispensed or delivered by a pharmacist upon an original prescription, drug order or prescription drug order by a practitioner in good faith in the course of his practice. Any person violating the provisions of this subparagraph shall be guilty of a felony, and on conviction thereof shall be imprisoned in the state penitentiary for a term not to exceed three



(3) years, or punished by a fine of not more than five thousand dollars (\$5,000) or by both such fine and imprisonment.

(ii) In the case of a legend drug dispensed by a pharmacist or prescriber, there is a label affixed to the immediate container in which such drug is dispensed. Any person violating this subparagraph shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars (\$500). Nothing in this subparagraph prohibits a practitioner from delivering professional samples of legend drugs in their original containers in the course of his practice when oral directions for use are given at the time of such delivery.

(b) The refilling of any prescription or drug order for a legend drug except as designated on the prescription or drug order, or by the authorization of the practitioner. Any person guilty of violating this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars (\$1,000) or by both such fine and incarceration.

(c) The possession or use of a legend drug or a precursor by any person unless such person obtains such drug on the prescription or drug order of a practitioner. Any person guilty of violating this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars (\$1,000) or by both such fine and incarceration.

(d) The wholesale distribution of drugs or devices by a pharmacy except for:

(i) The sale, transfer, merger or consolidation of all or part of the business of a pharmacy or pharmacies from or with another pharmacy or pharmacies, whether accomplished as a purchase and sale of stock or business assets.

(ii) The sale of minimal quantities of prescription drugs to practitioners for office use.

(iii) The sale of a prescription drug for emergency medical reasons, but never to a wholesale distributor.

(iv) Intracompany sales of prescription drugs, meaning any transaction or transfer between any division, subsidiary, parent or affiliated or related company under common ownership and control of a corporate entity, or any transaction or transfer between colicensees or a colicensed product, but never to a wholesale distributor.

(e) The failure to keep records as required by the board. Any person guilty of violating this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars (\$1,000) or by both such fine and incarceration.

(ef) The refusal to make available and to accord full opportunity to check any record, as required by the board. Any person guilty of violating this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars (\$1,000) or by both such fine and incarceration.

(fg) It is unlawful to:

(i) Obtain or attempt to obtain a legend drug or procure or attempt to procure the administration of a legend drug by fraud, deceit, misrepresentation or subterfuge; by the forgery or alteration of a prescription, drug order, or of any written order; by the concealment of a material fact; or by the use of a false name or the giving of a false address.

(ii) Communicate information to a physician in an effort unlawfully to procure a legend drug, or unlawfully to procure the administration of any such drug. Any such communication shall not be deemed a privileged communication.

(iii) Intentionally make a false statement in any prescription, drug order, order, report or record required by this chapter.

(iv) For the purpose of obtaining a legend drug to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian or other person.

(v) Make or utter any false or forged prescription or false drug order or forged written order.

(vi) Affix any false or forged label to a package or receptacle containing legend drugs. This subparagraph does not apply to law enforcement agencies or their representatives while engaged in enforcing state and federal drug laws.

(vii) Wholesale or retail any prescription or legend drug to any person in this state not entitled by law to deliver such drug to another.

Every violation of ~~subsection (3)(f)~~ paragraph (g) (i) through (vi) of this subsection shall be a misdemeanor and any person convicted thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or fined not more than one thousand dollars (\$1,000), or punished by both such fine and imprisonment. Any person violating ~~subsection (3)(f)~~ paragraph (g) (vii) of this subsection is guilty of a felony and on conviction thereof shall be imprisoned in the state penitentiary for a term not to exceed three (3) years, or punished by a fine of not more than five thousand dollars (\$5,000), or by both such fine and imprisonment.

(4) Provided however, that a veterinarian may dispense or deliver a legend drug prescribed for an animal upon the prescription, drug order, or prescription drug order of another veterinarian. The label shall be affixed pursuant to subsection (3) (a) (ii) of this section, and penalties for violations of the provisions of this subsection shall be as provided in this section for like violations by a pharmacist.

(5) The ultimate user of a legend drug who has lawfully obtained such legend drug may deliver, without being registered, the legend drug to another person for the purpose of disposal of the legend drug if the person receiving the legend drug for purposes of disposal is authorized under a state or federal law or regulation to engage in such activity.

SECTION 3. That Section 54-1734, Idaho Code, be, and the same is hereby amended to read as follows:

54-1734. EXCEPTIONS POSSESSION OF LEGEND DRUGS. ~~The provisions of this chapter pertaining to the sale of prescription drugs are not applicable:~~

~~(1) To the sale of legend drugs to persons included in any of the classes named in paragraphs (a) through (g) in subsection (2) of this section, or to the agents or employees of such persons, for use in the usual and lawful course of their business or practice or in the performance of their lawful official duties, as the case may be; or~~

~~(2) To the following persons or their agents or employees may possession of legend drugs by such persons or their agents or employees for such use in the usual and lawful course of their business or practice or in the performance of their lawful official duties, without a valid prescription drug order:~~

~~(a) Pharmacists;~~

~~(b) Practitioners Prescribers;~~

~~(c) Persons who procure legend drugs for handling by or under the supervision of pharmacists or practitioners employed by them, or for the purpose of lawful research, teaching, or testing, and not for resale~~  
Researchers who are prohibited from further distribution;

~~(d) Hospitals and other institutions which procure legend drugs for lawful administration by practitioners~~  
institutional facilities;

~~(e) Manufacturers and wholesalers;~~

~~(f) Common carriers and warehousemen solely in the usual course of business of transporting prescription drugs;~~  
and

~~(g) Schools possessing stock supplies of epinephrine auto-injectors pursuant to section 33-520A, Idaho Code.~~

~~(32) To the sale by a business not licensed as a pharmacy of~~  
Veterinary drug outlets or their agents or employees may possess legend drugs, (excluding controlled substances), designated for veterinary use which require in the usual and lawful course of their business or practice or in the performance of their lawful official duties, without a valid prescription, provided that:  
drug order.

~~(a) The business is registered and licensed with the board of pharmacy.~~

~~(b) The sale is authorized by a written or oral order from a veterinarian licensed in this or another state.~~

~~1. Prior to dispensing an order from an out-of-state veterinarian, the seller must confirm and document that the veterinarian is properly licensed in his state.~~

~~2. Oral orders must be confirmed by the veterinarian in writing no later than seven (7) days after the seller receives the order.~~

~~(c) The written order or confirmation of an oral order must be retained on the premises of the business for at least two (2) years after the original date of the order.~~

SECTION 4. That Section 54-1735, Idaho Code, be, and the same is hereby amended to read as follows:

54-1735. ~~MAINTENANCE OF PATIENT MEDICATION RECORDS. (1) Manufacturers and wholesalers. Manufacturers and wholesalers shall maintain records of the movement in commerce of legend drugs for two (2) years immediately following the date of the last entry on such record and shall make such records available, at reasonable times, to law enforcement agencies and their representatives in the enforcement of this act. Evidence obtained under this section may not be used in a criminal prosecution of the person from whom obtained.~~

~~(2) Pharmacies. In order to effectively counsel patients, the pharmacist shall make a reasonable effort to obtain, record and maintain significant patient information including, but not limited to:~~

~~(a1) Name, address, telephone number;~~

~~(b2) Date of birth (age), gender;~~

~~(c3) Medical history:~~

~~1. (a) Disease state (s);~~

~~2. (b) Allergies/drug reactions; and~~

~~3. (c) Current list of medications and devices;~~

~~(d4) Pharmacist comments.~~

SECTION 5. That Section 54-1752, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

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

~~(42) "Colicensed partner or product" means an instance where two (2) or more parties have the right to engage in the manufacturing and/or marketing of a prescription drug, consistent with the federal food and drug administration's implementation of the prescription drug marketing act.~~

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

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

~~(73) "Manufacturer" means a person, including a colicensed partner or affiliate of that person, who prepares, derives, manufactures, produces or repackages a drug or is licensed or approved by the federal food and drug administration to engage in the manufacture of drugs or devices, consistent with the federal food and drug administration definition of "manufacturer" under its regulations and guidance implementing the prescription drug marketing act.~~

~~(8) "Manufacturer's exclusive distributor" means anyone who contracts with a manufacturer to provide or coordinate warehousing, distribution or other services on behalf of a manufacturer and who takes title to that manufacturer's prescription drug, but who does not have general responsibility to direct the sale or disposition of the manufacturer's prescription drug. Such manufacturer's exclusive distributor must be licensed as a wholesale distributor under section 54-1753, Idaho Code, and to be considered part of the normal distribution channel, must also be an authorized distributor of record.~~

~~(9) "Normal distribution channel" means a chain of custody for a prescription drug that goes from a manufacturer of the prescription drug, from that manufacturer to that manufacturer's colicensed partner, from that manufacturer to that manufacturer's third party logistics provider, from that manufacturer to that manufacturer's exclusive distributor, or from that manufacturer directly or through its colicensed partner, third party logistics provider or manufacturer's exclusive distributor to a repackager who is an authorized distributor of record for the manufacturer, whose facility is registered with the United States food and drug administration~~

and who engages in the practice of repackaging the original dosage form of a prescription drug in accordance with applicable regulations and guidelines of the United States food and drug administration, either directly or by drop shipment, to:

~~(a) A pharmacy to a patient;~~

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

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

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

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

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

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

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

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

~~(147) "Repackager" means a person who repackages "Reverse distributor" means a drug outlet that receives nonsaleable prescription drugs from persons or their agents, who may lawfully possess prescription drugs without being issued a valid prescription drug order, and processes for credit or disposes of such prescription drugs.~~

~~(15) "Third party logistics provider" means anyone who contracts with a prescription drug manufacturer to provide or coordinate warehousing, distribution or other services on behalf of a manufacturer, but does not take title to the prescription drug or have general responsibility to direct the prescription drug's sale or disposition. Such third party logistics provider must be licensed as a wholesale distributor under section 54-1753, Idaho Code, and to be considered part of the normal distribution channel, must also be an authorized distributor of record.~~

~~(16) "Veterinary pharmacy" means a business properly licensed as a pharmacy engaging exclusively in the preparation and dispensing of prescription drugs for veterinary prescribed use.~~

~~(17) "Wholesale distributor" means anyone engaged in the wholesale distribution of prescription drugs including, but not limited to:~~

~~(a) Manufacturers;~~

~~(b) Repackagers;~~

~~(c) Own-label distributors;~~

~~(d) Private-label distributors;~~

~~(e) Jobbers;~~

~~(f) Brokers;~~

~~(g) Warehouses, including manufacturers' and distributors' warehouses;~~

- ~~(h) Manufacturers' exclusive distributors;~~
- ~~(i) Authorized distributors of record;~~
- ~~(j) Drug wholesalers or distributors;~~
- ~~(k) Independent wholesale drug traders;~~
- ~~(l) Specialty wholesale distributors;~~
- ~~(m) Third party logistics providers;~~
- ~~(n) Retail pharmacies that conduct wholesale distribution; and~~
- ~~(o) Chain pharmacy warehouses that conduct wholesale distribution.~~

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

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

~~(a) Intracompany sales of prescription drugs, meaning any transaction or transfer between any division, subsidiary, parent or affiliated or related company under common ownership and control of a corporate entity, or any transaction or transfer between colicensees of a colicensed product.~~

~~(b) The sale, purchase, distribution, trade or transfer of a prescription drug or offer to sell, purchase, distribute, trade or transfer a prescription drug for emergency medical reasons.~~

~~(c) The distribution of prescription drug samples by manufacturers' representatives.~~

~~(d) Drug returns, when conducted by a hospital, health care entity or charitable institution in accordance with 21 CFR 203.23.~~

~~(e) Drug donations, when conducted in accordance with sections 54-1760 through 54-1765, Idaho Code.~~

~~(f) The sale of minimal quantities of prescription drugs by pharmacies to licensed practitioners for office use.~~

~~(gb) The sale, purchase or trade of a drug, an offer to sell, purchase or trade a drug, or the dispensing of a drug pursuant to a prescription.~~

~~(h) The sale, transfer, merger or consolidation of all or part of the business of a pharmacy or pharmacies from or with another pharmacy or pharmacies, whether accomplished as a purchase and sale of stock or business assets.~~

~~(i) The sale, purchase, distribution, trade or transfer of a prescription drug from one (1) authorized distributor of record to one (1) additional authorized distributor of record when the manufacturer has stated in writing to the receiving authorized distributor of record that the manufacturer is unable to supply such prescription drug and the supplying authorized distributor of record states in writing that the prescription drug being supplied had, until that time, been exclusively in the normal distribution channel.~~

~~(jc) The delivery of, or offer to deliver, a prescription drug by a common carrier solely in the common carrier's usual course of business of transporting prescription drugs, and such common carrier does not store, warehouse or take legal ownership of the prescription drug.~~

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

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

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

~~(ii) Pursuant to a valid prescription drug order the veterinary pharmacy labels and delivers the prescription drug directly to the~~

~~owner or person having custody of the animal for whom the prescription drug is intended.~~

SECTION 6. That Section 54-1753, Idaho Code, be, and the same is hereby amended to read as follows:

54-1753. WHOLESALE DRUG DISTRIBUTOR LICENSING REQUIREMENT -- MINIMUM REQUIREMENTS FOR LICENSURE. (1) Every ~~wholesale distributor who~~ business entity that engages in the wholesale distribution of prescription drugs in or into Idaho must be licensed by the board, ~~and every nonresident wholesale distributor must be licensed by the board if it ships prescription drugs into this state in accordance with this act before engaging in wholesale distributions of wholesale prescription drugs. The board shall exempt as a wholesale distributor except:~~

(a) Manufacturers distributing their own federal food and drug administration approved drugs and devices from any licensing and other requirements to the extent not required by federal law or regulation including distribution of prescription drug samples by manufacturer's representatives and intracompany sales, meaning any transaction or transfer between any division, subsidiary, parent or affiliated or related company under common ownership and control of a corporate entity or any transfer between colicensees of a colicensed product, unless particular requirements are deemed necessary and appropriate following rulemaking.

(b) An entity that donates prescription drugs, when conducted in accordance with sections 54-1760 through 54-1765, Idaho Code.

(c) A pharmacy distributing in accordance with section 54-1732, Idaho Code.

(d) Persons selling, purchasing, distributing, trading or transferring a prescription drug for emergency medical reasons.

(2) The board shall require the following minimum information from each wholesale distributor applying for a license under subsection (1) of this section:

(a) The name, full business address and telephone number of the licensee;

(b) All trade or business names used by the licensee;

(c) Addresses, telephone numbers, and the names of contact persons for all facilities used by the licensee for the storage, handling, and distribution of prescription drugs;

(d) The type of ownership or operation, i.e., partnership, corporation, or sole proprietorship;

(e) The name of each person who is an owner or an operator of the licensee;

(f) A list of all licenses and permits issued to the applicant by any other state that authorizes the applicant to purchase or possess prescription drugs;

(g) The name of the applicant's designated representative for the facility, together with the personal information statement and fingerprints, required pursuant to paragraph (h) of this subsection ~~(2)~~ for such individual;

(h) Each individual required by paragraph (g) of this subsection ~~(2)~~ to provide a personal information statement and fingerprints shall provide the following information to the board:

(i) The individual's places of residence for the past seven (7) years;

(ii) The individual's date and place of birth;

(iii) The individual's occupations, positions of employment and offices held during the past seven (7) years;

(iv) The principal business and address of any business, corporation or other organization in which each such office of the individual was held or in which each such occupation or position of employment was carried on;

(v) Whether the individual has been, during the past seven (7) years, the subject of any proceeding for the revocation of any license or any criminal violation and, if so, the nature of the proceeding and the disposition of the proceeding;

(vi) Whether, during the past seven (7) years, the individual has been enjoined, either temporarily or permanently, by a court of competent jurisdiction from violating any federal or state law regulating the possession, control or distribution of prescription drugs or criminal violations, together with details concerning any such event;

(vii) A description of any involvement by the individual with any business, including any investments, other than the ownership of stock in a publicly traded company or mutual fund, during the past seven (7) years, which manufactured, administered, prescribed, distributed or stored pharmaceutical products, and any lawsuits in which such businesses were named as a party and in which the individual was also a named party in the same lawsuit or, regardless of whether the individual was a named party, in which the individual testified as a witness at trial or in a deposition;

(viii) A description of any felony criminal offense of which the individual, as an adult, was found guilty, regardless of whether adjudication of guilt was withheld or whether the individual pled guilty or nolo contendere. If the individual indicates that a criminal conviction is under appeal and submits a copy of the notice of appeal of that criminal offense, the applicant must, within fifteen (15) days after the disposition of the appeal, submit to the board a copy of the final written order of disposition; and

(ix) A photograph of the individual taken in the previous year.

(3) The information required pursuant to subsection (2) of this section shall be provided under oath.

(4) The board shall not issue a wholesale distributor license to an applicant, unless the board:

(a) Conducts a physical inspection of the facility at the address provided by the applicant as required in subsection (2) (a) of this section or approves an inspection report that evidences equivalent standards to those in Idaho; and

(b) Determines that the designated representative meets the following qualifications:

(i) Is at least twenty-one (21) years of age;

(ii) Has been employed full time for at least three (3) years in a pharmacy or with a wholesale distributor in a capacity related to the dispensing and distribution of, and recordkeeping relating to, prescription drugs;

(iii) Is employed by the applicant full time in a managerial level position;

(iv) Is actively involved in and aware of the actual daily operation of the wholesale distributor;

(v) Is physically present at the facility of the applicant during regular business hours, except when the absence of the designated representative is authorized including, but not limited to, sick leave and vacation leave;

(vi) Is serving in the capacity of a designated representative for only one (1) applicant at a time, except where more than one (1) licensed wholesale distributor is colocated in the same facil-



ity and such wholesale distributors are members of an affiliated group, as defined in section 1504 of the Internal Revenue Code;

(vii) Does not have any convictions under any federal, state or local law relating to wholesale or retail prescription drug distribution or distribution of controlled substances; and

(viii) Does not have any felony convictions under federal, state or local law.

(5) ~~The board~~ All applicant-designated representatives shall submit the fingerprints provided by a person with a license application for a statewide to a fingerprint-based criminal records history check of the Idaho central criminal history database and for forwarding to the federal bureau of investigation for a national criminal records check of the individual history database. Each applicant shall submit a completed ten (10) finger fingerprint card or scan to the board of pharmacy at the time of application and shall pay the cost of the criminal history check.

(6) If a wholesale distributor distributes prescription drugs in or into Idaho from more than one (1) facility, the wholesale distributor shall obtain a license for each facility.

~~(7) In accordance with each licensure renewal, the board shall send to each wholesale distributor licensed under this section a form setting forth the information that the wholesale distributor provided pursuant to subsection (2) of this section. Within thirty (30) days of receiving such form, the wholesale distributor must identify and state under oath to the board all changes or corrections to the information that was provided pursuant to subsection (2) of this section. Changes in, or corrections to, any information in subsection (2) of this section shall be submitted to the board as required by the board. The board may suspend or revoke the license of a wholesale distributor if such authority determines that the wholesale distributor no longer qualifies for the license issued under this section~~  
A wholesale distributor shall have adequate processes in place for monitoring purchase activity of customers and identifying suspicious ordering patterns that identify potential diversion or criminal activity related to controlled substances such as orders of unusual size, orders deviating substantially from a normal pattern, orders for drugs that are outside of the prescriber's scope of practice, or orders of unusual frequency.

(8) The designated representative identified pursuant to subsection (2)(g) of this section must receive and complete continuing training in applicable federal law and the law of this state governing wholesale distribution of prescription drugs.

(9) The board may adopt rules to approve an accreditation body to evaluate a wholesaler's operations to determine compliance with professional standards and any other applicable laws, and to perform inspections of each facility and location where wholesale distribution operations are conducted by the wholesaler.

~~(10) Information provided under this section shall not be disclosed to any person other than a state licensing authority, government board or government agency, provided such licensing authority, government board or agency needs such information for licensing or monitoring purposes.~~

SECTION 7. That Section 54-1754, Idaho Code, be, and the same is hereby amended to read as follows:

54-1754. RESTRICTIONS ON TRANSACTIONS. (1) A wholesale distributor shall receive prescription drug returns or exchanges from a pharmacy or chain pharmacy warehouse pursuant to the terms and conditions of the agreement between the wholesale distributor and the pharmacy or chain pharmacy warehouse. Returns of expired, damaged, recalled or otherwise nonsaleable pharmaceutical product shall be distributed by the receiving wholesale distributor only to either the original manufacturer or third party returns

processor, including a reverse distributor. ~~The returns or exchanges of prescription drugs, saleable or otherwise, including any redistribution by a receiving wholesaler, shall not be subject to the pedigree requirement of section 54-1755, Idaho Code, so long as they are exempt from pedigree under the federal food and drug administration's currently applicable prescription drug marketing act guidance.~~ Wholesale distributors and pharmacies shall be held accountable for administering their returns process and ensuring that the aspects of this operation are secure and do not permit the entry of adulterated and counterfeit product.

(2) A wholesale distributor shall not engage in the wholesale distribution of prescription drugs that are purchased from pharmacies or practitioners or from wholesale distributors that purchase them from pharmacies or practitioners.

(23) A manufacturer or wholesale distributor shall furnish prescription drugs only to a person licensed by the appropriate state licensing agency to manufacture, distribute, dispense, conduct research or independently administer such prescription drugs. A manufacturer or wholesale distributor shall furnish a scheduled controlled substance listed in section 37-2705, 37-2707, 37-2709, 37-2711 or 37-2713, Idaho Code, only to a person who has been issued a valid controlled substance registration by the United States drug enforcement administration and the Idaho board of pharmacy, unless exempted by state or federal law.

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

- (a) The identity and authorization of the recipient is properly established; and
- (b) This method of receipt is employed only to meet the immediate needs of a particular patient of the authorized person.

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

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

SECTION 8. That Section 54-1758, Idaho Code, be, and the same is hereby amended to read as follows:

54-1758. PROHIBITED ACTS. (1) It shall be unlawful for a person to knowingly perform, or cause the performance of, or aid and abet any of the following acts in this state:

- (a) Failure to obtain a license when a license is required by this act chapter;
- (b) Operate as a wholesale distributor without a valid license when a license is required by this act chapter;
- (c) Purchase from or otherwise receive, return or exchange a prescription drug from a pharmacy or chain pharmacy warehouse, other than in compliance with section 54-1754(1), Idaho Code;

(d) When a state license is required pursuant to section 54-1754 (23) , Idaho Code, sell, distribute, transfer or otherwise furnish a prescription drug to a person who is not authorized under the law of the jurisdiction in which the person received the prescription drug to receive the prescription drug;

(e) Failure to deliver prescription drugs to specified premises, as required by section 54-1754 (34) , Idaho Code;

(f) Acceptance of payment or credit for the purchase of prescription drugs, other than in compliance with section 54-1754 (56) , Idaho Code;

~~(g) Failure to maintain or provide pedigrees as required by this act;~~

~~(h) Failure to obtain, pass or authenticate a pedigree, as required by this act;~~

~~(i) Provide the board or any of its representatives or any federal official with false or fraudulent records or make false or fraudulent statements regarding any matter within the provisions of this act chapter;~~

(jh) Obtain, or attempt to obtain, a prescription drug by fraud, deceit or misrepresentation or engage in misrepresentation or fraud in the distribution of a prescription drug;

(ki) Manufacture, repackage, sell, transfer, deliver, hold or offer for sale any prescription drug that is adulterated, misbranded, counterfeit, suspected of being counterfeit or otherwise has been rendered unfit for distribution;

(lj) Adulterate, misbrand or counterfeit any prescription drug;

(mk) Receive any prescription drug that is adulterated, misbranded, stolen, obtained by fraud or deceit, counterfeit or suspected of being counterfeit;

(nl) Deliver or proffer delivery of, for pay or otherwise, any prescription drug that is adulterated, misbranded, stolen, obtained by fraud or deceit, counterfeit or suspected of being counterfeit;

(om) Alter, mutilate, destroy, obliterate or remove the whole or any part of the labeling of a prescription drug or commit any other act with respect to a prescription drug that results in the prescription drug being misbranded; or

(pn) Sell, deliver, transfer or offer to sell to a person not authorized under law to receive the return or exchange of a prescription drug, a prescription drug that has expired, been damaged or recalled by either the original manufacturer, a third party returns processor or a reverse distributor.

(2) The acts prohibited in subsection (1) of this section do not include a prescription drug manufacturer, or agent of a prescription drug manufacturer, who obtains or attempts to obtain a prescription drug for the sole purpose of testing the prescription drug for authenticity.

SECTION 9. That Section 54-1755, Idaho Code, be, and the same is hereby repealed.

SECTION 10. That Section 54-1756, Idaho Code, be, and the same is hereby repealed.

SECTION 11. That Section 37-3201, Idaho Code, be, and the same is hereby amended to read as follows:

37-3201. DEFINITIONS. As used in this chapter:

(1) "Code imprint" means a series of letters or numbers assigned by the manufacturer or distributor to a specific drug, or marks or monograms unique to the manufacturer or distributor of the drug, or both;

(2) "Distributor" means a person who distributes for resale a drug in solid dosage form under his own label even though he is not the actual manufacturer of the drug;

- (3) "Solid dosage form" means capsules or tablets intended for oral use;
- (4) "Legend drug" means any drug defined by section 54-1705(367), Idaho Code.

SECTION 12. That Section 54-1759, Idaho Code, be, and the same is hereby amended to read as follows:

54-1759. PENALTIES. (1) Any person who commits any act prohibited by section 54-1758(1) (a) through ~~(1)(h)~~(f), Idaho Code, is guilty of a misdemeanor, which is punishable by not more than one (1) year of imprisonment, or by a fine not exceeding five thousand dollars (\$5,000), or both.

(2) Any person who commits any act prohibited by section 54-1758(1) (ig) through ~~(1)(p)~~(n), Idaho Code, is guilty of a felony, which is punishable by imprisonment for a term of not less than five (5) years and not more than twenty (20) years, or by a fine not exceeding five hundred thousand dollars (\$500,000), or both.

(3) Any person who, with the intent to commit any of the acts prohibited by section 54-1758(1) (ig) through ~~(1)(p)~~(n), Idaho Code, commits any act prohibited by section 54-1758(1) (a) through ~~(1)(h)~~(f), Idaho Code, is guilty of a felony, which is punishable by imprisonment for a term of not less than five (5) years and not more than twenty (20) years, or by a fine not exceeding five hundred thousand dollars (\$500,000), or both.

(4) Any criminal penalty imposed on a person who commits any act prohibited by section 54-1758, Idaho Code, is in addition to, and not in lieu of, any other civil or administrative penalty or sanction authorized by law.

SECTION 13. That Section 54-1761, Idaho Code, be, and the same is hereby amended to read as follows:

54-1761. DEFINITIONS. As used in sections 54-1760 through 54-1765, Idaho Code:

(1) "Legend drug" has the same meaning as provided in section 54-1705(367), Idaho Code.

(2) "Medically indigent" means any person who is in need of a legend drug and who is not eligible for medicaid or medicare, who cannot afford private prescription drug insurance or who does not have income and other resources available sufficient to pay for the legend drug.

(3) "Qualifying charitable clinic or center" means a community health center as defined in section 39-3203, Idaho Code, and means a free medical clinic as defined in section 39-7702, Idaho Code, acting in consultation with a pharmacist licensed in the state of Idaho.

SECTION 14. That Section 54-4702, Idaho Code, be, and the same is hereby amended to read as follows:

54-4702. DEFINITIONS. As used in this chapter:

(1) "Acupuncture" means that theory of health care developed from traditional and modern Oriental medical philosophies that employs diagnosis and treatment of conditions of the human body based upon stimulation of specific acupuncture points on meridians of the human body for the promotion, maintenance, and restoration of health and for the prevention of disease. Therapies within the scope of acupuncture include manual, mechanical, thermal, electrical and electromagnetic treatment of such specific indicated points. Adjunctive therapies included in, but not exclusive to, acupuncture include herbal and nutritional treatments, therapeutic exercise and other therapies based on traditional and modern Oriental medical theory.

(2) "Board" means the Idaho state board of acupuncture.

(3) "NCCAOM" means "National Certification Commission for Acupuncture and Oriental Medicine."

(4) "Practice of acupuncture" means the insertion of acupuncture needles and use of similar devices and therapies, including application of moxibustion, to specific indicated points on the skin of the human body as indicated pursuant to traditional and modern theories of Oriental medicine. The "practice of acupuncture" does not include:

(a) Surgery; or

(b) Prescribing, dispensing or administering any prescription drug or legend drug as defined in section 54-1705(367), Idaho Code.

SECTION 15. That Section 54-5110, Idaho Code, be, and the same is hereby amended to read as follows:

54-5110. NATUROPATHIC MEDICAL FORMULARY COUNCIL ESTABLISHED. There is hereby established a naturopathic medical formulary council, which is separate and distinct from the board, to be composed of seven (7) members. Two (2) members shall be naturopathic physicians licensed under this chapter and appointed by the board of naturopathic medical examiners. Three (3) members shall be pharmacists licensed under chapter 17, title 54, Idaho Code, appointed by the board of naturopathic medical examiners from a list of nominees provided by the Idaho state board of pharmacy. Two (2) members shall be physicians licensed under chapter 18, title 54, Idaho Code, appointed by the board of naturopathic medical examiners from a list of nominees provided by the Idaho state board of medicine. The initial council shall be appointed as follows: One (1) naturopathic physician shall be appointed for a one (1) year term; one (1) physician licensed under chapter 18, title 54, Idaho Code, and one (1) pharmacist shall be appointed for a two (2) year term; and two (2) pharmacists, one (1) naturopathic physician and one (1) physician licensed under chapter 18, title 54, Idaho Code, shall be appointed for a three (3) year term. Thereafter, the term of office shall be three (3) years. A quorum shall consist of five (5) members and shall be required for any vote to be taken. It shall be the duty of the naturopathic medical formulary council to establish a formulary for use by naturopathic physicians, and immediately upon adoption or revision of the formulary, the council shall transmit the approved formulary to the board, which shall adopt the formulary by temporary rule. The formulary will be reviewed annually by the council, or at any time at the request of the board. The formulary list may not go beyond the scope of prescription medicines and medical devices covered by approved naturopathic medical education and training and existing naturopathic medical formularies, or board-approved continuing education. The naturopathic medical formulary shall not include medicines and devices that are inconsistent with the training provided by approved naturopathic medical colleges. Nothing herein shall allow a naturopathic physician to dispense, administer or prescribe any prescription drug as defined in section 54-1705(367), Idaho Code, or medical device unless such prescription drug or medical device is specifically included in the naturopathic medical formulary.

Approved March 5, 2015

CHAPTER 29  
(H.B. No. 9)

AN ACT

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

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

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

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

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

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

- (2) Benzphetamine;
- (3) Chlorphentermine;
- (4) Clortermine;
- (5) Phendimetrazine.

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

(1) Any compound, mixture or preparation containing:

- i. Amobarbital;
- ii. Secobarbital;
- iii. Pentobarbital or any salt thereof and one (1) or more other active medicinal ingredients which are not listed in any schedule.

(2) Any suppository dosage form containing:

- i. Amobarbital;
- ii. Secobarbital;
- iii. Pentobarbital or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository.

(3) Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof, including, but not limited to:

- i. Aprobarbital;
- ii. Butobarbital (secbutobarbital);
- iii. Butalbital;
- iv. Butobarbital (butethal);
- v. Talbutal;
- vi. Thiamylal;

- vii. Thiopental;
  - viii. Vinbarbital.
  - (4) Chlorhexadol;
  - (5) Embutramide;
  - (6) Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section 505 of the federal food, drug, and cosmetic act;
  - (7) Ketamine, its salts, isomers, and salts of isomers-
7285. (Some other names for ketamine: (+/-)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone).
- (8) Lysergic acid;
  - (9) Lysergic acid amide;
  - (10) Methyprylon;
  - (11) Perampanel, and its salts, isomers and salts of isomers;
  - (12) Sulfondiethylmethane;
  - (123) Sulfonethylmethane;
  - (134) Sulfonmethane;
  - (145) Tiletamine and zolazepam or any salt thereof.
- (d) Nalorphine.
  - (e) Narcotic drugs. Unless specifically excepted or unless listed in another schedule:
    - (1) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:
      - (i) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;
      - (ii) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;
      - (iii) ~~Not more than 300 milligrams of dihydrocodeinone, commonly known as hydrocodone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;~~
      - (iv) ~~Not more than 300 milligrams of dihydrocodeinone, commonly known as hydrocodone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;~~
      - (v) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;
      - (vi) Not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one (1) or more ingredients in recognized therapeutic amounts;
      - (vii) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;
      - (viii) Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts.

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

- (i) Buprenorphine.
- (ii) [Reserved].

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

- (1) 13beta-ethyl-17beta-hydroxygon-4-en-3-one;
- (2) 17alpha-methyl-3alpha, 17beta-dihydroxy-5alpha-androstane;
- (3) 17alpha-methyl-3beta, 17beta-dihydroxy-5alpha-androstane;
- (4) 17alpha-methyl-3beta, 17beta-dihydroxyandrost-4-ene;
- (5) 17alpha-methyl-4-hydroxynandrolone;
- (6) 17alpha-methyl-delta1-dihydrotestosterone;
- (7) 19-nor-4-androstenediol;
- (8) 19-nor-4-androstenedione;
- (9) 19-nor-4, 9(10)-androstadienedione;
- (10) 19-nor-5-androstenediol;
- (11) 19-nor-5-androstenedione;
- (12) 1-androstenediol;
- (13) 1-androstenedione;
- (14) 3alpha, 17beta-dihydroxy-5alpha-androstane;
- (15) 3beta, 17beta-dihydroxy-5alpha-androstane;
- (16) 4-androstenediol;
- (17) 4-androstenedione;
- (18) 4-hydroxy-19-nortestosterone;
- (19) 4-hydroxytestosterone;
- (20) 5-androstenediol;
- (21) 5-androstenedione;
- (22) Androstenedione;
- (23) Bolasterone;
- (24) Boldenone;
- (25) Boldione;
- (26) Calusterone;
- (27) Chlorotestosterone (4-chlorotestosterone);
- (28) Clostebol;
- (29) Dehydrochlormethyltestosterone;
- (30) Delta1-dihydrotestosterone;
- (31) Desoxymethyltestosterone;
- (32) Dihydrotestosterone (4-dihydrotestosterone);
- (33) Drostanolone;
- (34) Ethylestrenol;
- (35) Fluoxymesterone;
- (36) Formebolone;
- (37) Furazabol;
- (38) Human growth hormones;
- (39) Mestanolone;
- (40) Mesterolone;
- (41) Methandienone;
- (42) Methandranone;
- (43) Methandriol;
- (44) Methandrostenolone;
- (45) Methasterone (2a, 17a-dimethyl-5a-androstan-17?-ol-3-one);
- (46) Methenolone;
- (47) Methyldienolone;
- (48) Methyltestosterone;
- (49) Methyltrienolone;
- (50) Mibolerone;



- (51) Nandrolone;
- (52) Norbolethone;
- (53) Norclostebol;
- (54) Norethandrolone;
- (55) Normethandrolone;
- (56) Oxandrolone;
- (57) Oxymesterone;
- (58) Oxymetholone;
- (59) Prostanazol (17 $\beta$ -hydroxy-5 $\alpha$ -androstandro[3,2-c]pyrazole);
- (60) Stanolone;
- (61) Stanozolol;
- (62) Stenbolone;
- (63) Testolactone;
- (64) Testosterone;
- (65) Testosterone cypionate;
- (66) Testosterone enanthate;
- (67) Testosterone propionate;
- (68) Tetrahydrogestrinone;
- (69) Trenbolone.

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

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

(g) Hallucinogenic substances.

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

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

(1) Butorphanol.

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

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

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

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

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

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

(3) 2- [(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol (including tramadol), including its salts, optical and geometric isomers, and salts of isomers.

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

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

(2) Alprazolam;

(3) Barbital;

(4) Bromazepam;

(5) Camazepam;

(6) Carisprodol;

(7) Chloral betaine;

(8) Chloral hydrate;

(9) Chlordiazepoxide;

(10) Clobazam;

(11) Clonazepam;

(12) Clorazepate;

(13) Clotiazepam;

(14) Cloxazolam;

(15) Delorazepam;

(16) Diazepam;

(17) Dichloralphenazone;

(18) Estazolam;

(19) Ethchlorvynol;

(20) Ethinamate;

(21) Ethyl loflazepate;

(22) Fludiazepam;

(23) Flurazepam;

(24) Halazepam;

(25) Haloxazolam;

(26) Ketazolam;

(27) Loprazolam;

(28) Lorazepam;

(29) Lormetazepam;

(30) Mebutamate;

(31) Medazepam;

(32) Meprobamate;

(33) Methohexital;

(34) Methylphenobarbital (mephobarbital);

(35) Midazolam;

(36) Nimetazepam;

(37) Nitrazepam;

(38) Nordiazepam;

(39) Oxazepam;

(40) Oxazolam;

(41) Paraldehyde;

(42) Petrichloral;

(43) Phenobarbital;

- (44) Pinazepam;
- (45) Prazepam;
- (46) Quazepam;
- (47) Suvorexant;
- (48) Temazepam;
- (479) Tetrazepam;
- (4850) Triazolam;
- ~~(49) Quazepam;~~
- (501) Zaleplon;
- (512) Zolpidem;
- (523) Zopiclone.

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

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

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

- (1) Cathine ((+)-norpseudoephedrine);
- (2) Diethylpropion;
- (3) Fencamfamin;
- (4) Fenproporex;
- (5) Lorcaserin;
- (6) Mazindol;
- (7) Mefenorex;
- (8) Modafinil;
- (9) Pemoline (including organometallic complexes and chelates thereof);
- (10) Phentermine;
- (11) Pipradrol;
- (12) Sibutramine;
- (13) 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 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.

CHAPTER 30  
(H.B. No. 23)

AN ACT

RELATING TO MASSAGE THERAPY; AMENDING SECTION 54-4003, IDAHO CODE, TO REVISE LANGUAGE RELATING TO EXEMPTIONS, TO PROVIDE AN ADDITIONAL EXEMPTION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-4003, Idaho Code, be, and the same is hereby amended to read as follows:

54-4003. EXEMPTIONS. (1) Nothing in this chapter shall be construed to restrict any person licensed or regulated by the state of Idaho from engaging in the profession or practice for which they are licensed or regulated.

(2) Nothing in this chapter shall prohibit, prevent or restrict:

(a) The practice of massage therapy by a person employed by the government of the United States while the person is engaged in the performance of duties prescribed by the laws and regulations of the United States.

(b) The practice of massage therapy by persons duly licensed, registered or certified in another state, a territory, the District of Columbia or a foreign country when incidentally called into this state to teach a course related to massage therapy or to consult with a person licensed under this chapter.

(c) The practice of massage therapy by persons licensed, registered or certified and in good standing in another state, a territory, the District of Columbia or a foreign country when practicing on clients participating in organized athletic events or affiliated with or employed by established athletic teams, athletic organizations or performing arts companies temporarily practicing, competing or performing in this state for no more than sixty (60) days in a calendar year.

(d) The practice of sStudents enrolled in a board-approved course of instruction while completing a clinical requirement or supervised massage therapy fieldwork experience for graduation performed under the supervision of a person licensed under this chapter, provided the student does not hold himself or herself out as a licensed massage therapist and does not receive compensation for services performed.

~~(de) Nothing in this chapter shall be construed to prevent or restrict~~ tThe practice of any person in this state who uses touch, words and directed movement to deepen awareness of existing patterns of movement in the body as well as to suggest new possibilities of movement while engaged within the scope of practice of a profession, provided that their services are not designated or implied to be massage or massage therapy. Such practices include, but are not limited to, the Feldenkrais method® of somatic education, the Trager approach® to movement education, body-mind centering®, Ortho-Bionomy® and craniosacral therapy.

(ef) The practice of pPersons who restrict their practice to manipulation of the soft tissues of the human body to the hands, feet or ears and do not hold themselves out to be massage therapists or to do massage or massage therapy.

~~(fg) Nothing in this chapter shall be construed to prevent or restrict~~  
~~the practice of any person in this state who uses touch to affect the~~  
~~energy systems, acupoints or qi meridians, or channels of energy,~~  
~~of the human body while engaged within the scope of practice of a profession,~~  
~~provided that their services are not designated or implied to be mas-~~  
~~sage or massage therapy. Such practices include, but are not limited~~  
~~to, polarity, polarity therapy, polarity bodywork therapy, Asian body-~~  
~~work therapy, acupressure, jin shin do®, qi gong, reiki and shiatsu.~~

(gh) The practice of pPersons engaged in the profession of structural integration, restoring postural balance and functional ease by integrating the body in gravity based on a system of fascial manipulation, awareness, and education developed by Dr. Ida P. Rolf, provided their services are not designated or implied to be massage or massage therapy. Such practices include, but are not limited to: Rolfing® structural integration, the guild for structural integration, Hellerwork®.

Approved March 5, 2015

CHAPTER 31  
(H.B. No. 24)

AN ACT

RELATING TO OCCUPATIONAL THERAPY; AMENDING SECTION 54-3711, IDAHO CODE, TO REVISE LANGUAGE RELATING TO CONTINUING EDUCATION, TO REMOVE A REQUIREMENT FOR PROFESSIONAL DEVELOPMENT AND TO MAKE TECHNICAL CORRECTIONS.

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~~ birthday unless renewed before the applicant's ~~birthdate~~ birthday in the manner prescribed by the rules of the board. The board shall require biennial proof of completing ~~at least two~~ (2) the continuing education units ~~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 5, 2015

CHAPTER 32  
(H.B. No. 25)

AN ACT

RELATING TO PHYSICAL THERAPY; AMENDING SECTION 54-2213, IDAHO CODE, TO REVISE LANGUAGE RELATING TO EXEMPTIONS, TO PROVIDE AN ADDITIONAL EXEMPTION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-2213, Idaho Code, be, and the same is hereby amended to read as follows:

54-2213. ADDITIONAL EXEMPTIONS -- MILITARY, STUDENTS, EDUCATORS. In addition to the exemptions provided in section 54-2204, Idaho Code, the following persons shall also be exempt from licensure under this chapter:

(1) A physical therapist while practicing in the United States armed services, United States public health service or veterans administration as based on requirements under federal regulations for state licensure of health care providers.

(2) A person who is pursuing a course of study leading to a degree as a physical therapist or physical therapist assistant in an accredited or board approved board-approved professional education program and is satisfying supervised clinical education requirements related to his or her physical therapy education.

(3) A physical therapist licensed and in good standing in another U.S. jurisdiction, of the United States or a foreign-educated physical therapist credentialed in another country, performing who performs physical therapy as part of teaching or participating in an educational seminar of no more than sixty (60) days in a calendar year.

(4) A physical therapist licensed and in good standing in another jurisdiction of the United States or credentialed in another country who practices physical therapy in this state on patients or clients participating in organized athletic events or affiliated with or employed by established athletic teams, athletic organizations or performing arts companies temporarily practicing, competing or performing in this state for no more than sixty (60) days in a calendar year.

Approved March 5, 2015

CHAPTER 33  
(H.B. No. 34)

AN ACT

RELATING TO THE IDAHO ADMINISTRATIVE PROCEDURE ACT; REPEALING SECTION 3, CHAPTER 284, LAWS OF 2013, TO REMOVE A SUNSET DATE.

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

SECTION 1. That Section 3, Chapter 284, Laws of 2013, be, and the same is hereby repealed.

Approved March 5, 2015

CHAPTER 34  
(H.B. No. 36)

AN ACT

RELATING TO INCOME TAX; AMENDING SECTION 63-3022A, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE DEDUCTION OF CERTAIN RETIREMENT BENEFITS AND TO CLARIFY THAT CERTAIN TAXPAYERS MAY NOT DEDUCT CERTAIN RETIREMENT BENEFITS; 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 to a retired employee or the unmarried widow or widower of a retired employee by the United States of America to a retired civil service employee or the unremarried widow or widower of a retired civil service employee under the:

(i) Civil service retirement system; or

(ii) Foreign service retirement and disability system; or

(iii) Offset program of the civil service retirement system or foreign service retirement and disability system.

(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 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 or widower 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 or widower, an amount equal to the maximum social security benefits payable for the tax year to a widow or widower attaining full retirement age in the tax year who has no social security benefits except those to which he or she is entitled on his or her deceased spouse's record and whose spouse had received no reduced retirement benefits prior to his or her death and whose spouse had earned the maximum earnings creditable under social security for the years used in the computation of his or her 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. This includes retirement benefits paid by the federal employees retirement system or foreign service pension system.

(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 "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, 2015.



CHAPTER 35  
(H.B. No. 42)

AN ACT

RELATING TO FUELS TAX; AMENDING SECTION 63-2410, IDAHO CODE, TO REVISE PROVISIONS RELATING TO GASOLINE TAX REFUND PROCEDURES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 63-2410, Idaho Code, be, and the same is hereby amended to read as follows:

63-2410. REFUND OF GASOLINE TAX PROCEDURE. (1) Any person who ~~shall~~ purchases fifty (50) gallons or more, and use the gasoline in motor vehicles operated on highways outside of the state of Idaho where a duplicate tax is assessed for the same gasoline, ~~shall~~ will be entitled to a refund when a claim is presented to the commission in the manner required in subsection (5) (c) of this section. Claimant shall present to the commission a statement accompanied by a verification of the use determined by an audit of his operations conducted as prescribed by the state tax commission; or his claim may be verified by the filing of a receipt or proof showing the payment of tax on the gasoline used in any other state.

(2) Any person who ~~shall~~ purchases within any one (1) calendar year fifty (50) gallons or more of gasoline used for the purposes described in this subsection shall be entitled to be refunded the amount of gasoline tax previously paid on that gasoline. Exempt uses are:

- (a) Operating stationary gasoline engines;
- (b) Propelling equipment or vehicles which are not licensed or required to be operated licensed for operation on a highway;
- (c) Operating commercial motor boats; and
- (d) Propelling an all-terrain vehicle that is not required to be registered pursuant to chapter 4, title 49, Idaho Code, or chapter 71, title 67, Idaho Code.

(3) No refund of gasoline tax shall be allowed for any gasoline which is:

- (a) Used in motor vehicles required to be licensed or used in any motor vehicle exempt from registration by reason of the ownership or residence; or
- (b) Aircraft engine fuel placed in aircraft, provided however, if tax has been paid at the rate provided in section 63-2405, Idaho Code, on any motor fuel placed in the fuel supply tank of an aircraft, the user of the fuel may apply for a refund of the difference between the tax paid on the fuel and the tax imposed in section 63-2408, Idaho Code; or
- (c) Used in recreational vehicles except all-terrain vehicles exempted as provided in subsection (2) (d) of this section; or
- (d) Used in noncommercial motor boats or in boats operated by a governmental entity.

(4) Any licensed distributor paying the gasoline tax and/or aircraft engine fuel tax to the state of Idaho erroneously shall be allowed a credit or refund of the amount of tax paid by him if a written claim for credit or refund is filed with the commission within three (3) years after the date those taxes were paid. Such credit or refund shall include interest at the rate established in section 63-3045, Idaho Code, computed from the date taxes to be refunded or credited were paid to the commission.

- (5) (a) All claims for refund of gasoline taxes arising under subsection (1), (2) or (3) (b) of this section ~~shall~~ may be filed separately or in conjunction with the claimant's income tax return due pursuant

to chapter 30, title 63, Idaho Code. When filed in conjunction with the income tax return, the refund will be a refundable credit to income tax. The gasoline tax refund claimed shall must be for tax paid on gasoline actually purchased during the taxable year to which the income tax return relates. The gasoline tax refund due shall will be offset against any other taxes, penalties or interest due before any balance is refunded by the commission to the claimant. Subject to a limitation as to the amount of refund to be claimed as the commission may provide by rule, refund claims may be submitted and paid on a for any period not greater than one (1) year or less than one (1) monthly basis and reconciled on the income tax return when it is filed.

(b) If a claimant is not required to file an income tax return, the refund claim shall be made claimant will file claims using a calendar year filing cycle on forms and in the manner as the commission may provide. The refund claim shall relate to must be for taxes paid on gasoline actually purchased in the calendar year preceding the filing and the refund claim shall will be due on or before the fifteenth day of April 15 following the close of the calendar year. Refund claims may be submitted and paid for any period not greater than one (1) year or less than one (1) month.

(c) Claims for refunds under subsection (1) or (2) of this section shall be filed in the manner prescribed in section 63-3072, Idaho Code. Such credit or refund shall include interest at the rate established in section 63-3045, Idaho Code, computed from sixty (60) days following the later of the due date of the claimed refund under subsection (5) paragraph (a) or (5) (b) of this subsection or the filing of the claim. No refund shall will be paid under this section unless a written claim for such refund has been filed with the commission within three (3) years after the due date, including extensions, of the income tax return in regard to which the claim relates or the due date of the claim established in paragraph (b) of this subsection (5).

(d) The commission may require that all claims be accompanied by the original signed invoice or invoices issued to the claimant, showing the total amount of gasoline on which a refund is claimed and the reason, the amount of the tax and any additional information required by the commission. Each separate delivery shall constitute a purchase and a separate invoice shall be prepared, at least in duplicate, to cover the delivery. All invoices, except those prepared by a computer or similar machine, shall be prepared in ink or double-spaced carbon shall be used between the original and first duplicate.

(6) (a) Should the commission find that the claim contains errors, it may correct the claim and approve it as corrected, or the commission may require the claimant to file an amended claim. The commission may require any person who makes a claim for refund to furnish a statement under oath, giving his occupation, description of the machine or equipment in which the gasoline was used, the place where used and any other information as the commission may require. If the commission determines that any claim has been fraudulently presented, or is supported by an invoice or invoices fraudulently made or altered, or that any statement in the claim or affidavit is willfully false and made for the purpose of misleading, the commission may reject the claim in full. If the claim is rejected, the commission may suspend the claimant's right to any refund for purchases made during a period not to exceed one (1) year beginning with the date the rejected claim was filed, and it shall take all other action deemed appropriate.

(b) The commission has authority, in order to establish the validity of any claim, to examine the books and records of the claimant for that purpose, and failure of the claimant to accede to the demand for the examination may constitute a waiver of all rights to the refund claimed.

(7) In the event of the loss or destruction of the original invoice or invoices, the person claiming a refund may submit a duplicate copy of the invoice certified by the vendor, but payment based on the duplicate invoice shall not be made until one (1) year after the date on which the gasoline was purchased.

Approved March 5, 2015

CHAPTER 36  
(H.B. No. 5)

AN ACT

RELATING TO PHARMACY; AMENDING SECTION 54-1718, IDAHO CODE, TO CLARIFY BACKGROUND CHECK REQUIREMENTS FOR APPLICANTS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-1718, Idaho Code, be, and the same is hereby amended to read as follows:

54-1718. LICENSURE AND DISCIPLINE. (1) The board of pharmacy shall be responsible for the control and regulation of the practice of pharmacy in this state including, but not limited to, the following:

- (a) The licensing by examination or by reciprocity of applicants who are qualified to engage in the practice of pharmacy under the provisions of this ~~aet~~ chapter;
- (b) The renewal of licenses to engage in the practice of pharmacy;
- (c) The determination and issuance of standards for recognition and approval of schools and colleges of pharmacy whose graduates shall be eligible for licensure in this state, and the specification and enforcement of requirements for practical training, including internship;
- (d) The enforcement of the provisions of this ~~aet~~ chapter relating to the conduct or competence of pharmacists practicing in this state, and the suspension, revocation or restriction of licenses to practice pharmacy;
- (e) The regulation of the training, qualifications and employment of pharmacy interns.

(2) The board of pharmacy shall require all ~~applicants for original licensure or registration and for reinstatement of licenses or registrations~~ the following applicants to submit to a fingerprint-based criminal history check of the Idaho central criminal history database and the federal bureau of investigation criminal history database:

- (a) Original applicants for licensure or registration;
- (b) Applicants for reinstatement of a license or registration that has been suspended or revoked; and
- (c) Applicants for reinstatement of a license or registration that has lapsed for a period of time that is more than one (1) year.

~~Each applicant for original licensure or registration or for reinstatement of licensure or registration shall submit a completed ten (10) finger fingerprint card or scan to the board of pharmacy at the time of application and shall pay the cost of the criminal history check.~~

Approved March 5, 2015

CHAPTER 37  
(H.B. No. 44)

AN ACT

RELATING TO LICENSE PLATES; AMENDING SECTION 49-402, IDAHO CODE, TO PROVIDE A CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-420N, IDAHO CODE, TO PROVIDE FOR ROCKY MOUNTAIN ELK FOUNDATION PLATES.

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

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

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

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

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

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

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

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

(4) For operation of an all-terrain vehicle, utility type vehicle or motorbike, excluding a motorbike with an engine displacement of fifty (50) cubic centimeters or less, on city, county or highway district roads or highways open to such use, a restricted vehicle license plate fee pursuant

to section 49-450, Idaho Code, shall be paid. In addition, the registration fee specified in section 67-7122, Idaho Code, shall be paid as provided in section 67-7122, Idaho Code. The registration and restricted vehicle license plate exemption provided in section 49-426(2), Idaho Code, applies to all-terrain vehicles, utility type vehicles, motorbikes and motorcycles used for the purposes described in subsection (2) of section 49-426, Idaho Code. Nonresidents shall be allowed to purchase a restricted vehicle license plate and sticker for an all-terrain vehicle, utility type vehicle or motorbike.

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

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

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

(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 and shall be subject to staggered registration for the purpose of reregistration and notice of expiration.

(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, 49-420K, 49-420L, and 49-420M and 49-420N, Idaho Code, and any new special plate program effective on and after January 1, 2013, pursuant to section 49-402D, Idaho Code, there shall be an initial program fee of thirty-five dollars (\$35.00) and an annual program fee of twenty-five dollars (\$25.00). The fees contained in this subsection shall be applicable to all new special plate programs and shall be subject to staggered registration for the purpose of reregistration and notice of expiration. The initial program fee and the annual program fee shall be deposited in the state highway account and shall be used to fund the cost of administration of special license plate programs, unless otherwise specified by law.

(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 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 49-420N, Idaho Code, and to read as follows:

49-420N. ROCKY MOUNTAIN ELK FOUNDATION PLATES. (1) Any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon department approval, receive rocky mountain elk foundation 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 rocky mountain elk foundation license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Thirteen dollars (\$13.00) of the initial fee and thirteen dollars (\$13.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-two dollars (\$22.00) of each initial fee and twelve dollars (\$12.00) of each renewal fee shall be transferred by the state treasurer for deposit with the rocky mountain elk foundation office in Boise, Idaho, and shall be distributed by the rocky mountain elk foundation, as administrator of the funds, to support efforts of the foundation such as the education of its members and the public about habitat conservation, the value of hunting, hunting ethics and wildlife management, contributions toward habitat enhancement, wildlife management and research projects, promotion of outdoor skills, including shooting, survival and hunting skills programs, as well as the allocation of funds for larger projects and programs of the national rocky mountain elk foundation that benefit Idaho.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The rocky mountain elk foundation license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The design and any slogan on the plate shall be acceptable to the rocky mountain elk foundation and shall be approved by the Idaho transportation department utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the rocky mountain elk foundation.

(5) Sample rocky mountain elk foundation 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 rocky mountain elk foundation's office in Boise, Idaho, and shall be used for purposes as provided in subsection (2) of this section.

Approved March 5, 2015

CHAPTER 38  
(H.B. No. 43)

AN ACT

RELATING TO FUELS TAX; AMENDING SECTION 63-2401, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 63-2402, IDAHO CODE, TO REMOVE A CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 63-2411, IDAHO CODE, RELATING TO PURCHASE OF MOTOR FUEL BY RETAIL DEALERS; AMENDING SECTION 63-2425, IDAHO CODE, TO CLARIFY PROVISIONS RELATING TO THE PROHIBITION OF DYED OR MARKED DIESEL FUEL USE ON STATE HIGHWAYS, TO REMOVE PENALTY PROVISIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-2427A, IDAHO CODE, TO RENAME A CERTAIN LICENSE, TO REVISE AND PROVIDE ADDITIONAL REQUIREMENTS RELATING TO THE LICENSE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-2427B, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 63-2427C, IDAHO CODE, TO PROVIDE FOR A LIMITED DISTRIBUTOR LICENSE AND RELATED REQUIREMENTS AND TO REMOVE REVOCATION AND SUSPENSION PROVISIONS; AMENDING SECTION 63-2428, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; REPEALING SECTION 63-2430, IDAHO CODE, RELATING TO REVOCATION OR CANCELLATION OF LICENSE; REPEALING SECTION 63-2433, IDAHO CODE, RELATING TO DOING BUSINESS WITHOUT A LICENSE AND PENALTIES; REPEALING SECTION 63-2441, IDAHO CODE, RELATING TO PENALTIES; REPEALING SECTION 63-2443, IDAHO CODE, RELATING TO VIOLATIONS AND PENALTIES; AMENDING CHAPTER 24, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-2450, IDAHO CODE, TO PROVIDE FOR VIOLATIONS IN GENERAL; AMENDING CHAPTER 24, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-2455, IDAHO CODE, TO PROVIDE FOR SPECIFIC VIOLATIONS; AMENDING CHAPTER 24, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-2460, IDAHO CODE, TO PROVIDE FOR PENALTIES; AMENDING CHAPTER 24, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-2470, IDAHO CODE, TO PROVIDE FOR ENFORCEMENT OF LICENSING PROVISIONS; AND AMENDING SECTION 40-510, IDAHO CODE, TO REMOVE CODE REFERENCES AND TO PROVIDE A CHAPTER REFERENCE.

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

SECTION 1. That Section 63-2401, Idaho Code, be, and the same is hereby amended to read as follows:

63-2401. DEFINITIONS. In this chapter:

- (1) "Aircraft engine fuel" means:
  - (a) Aviation gasoline, defined as any mixture of volatile hydrocarbons used in aircraft reciprocating engines; and
  - (b) Jet fuel, defined as any mixture of volatile hydrocarbons used in aircraft turbojet and turboprop engines.
- (2) "Biodiesel" means any fuel that is derived in whole or in part from agricultural products or animal fats or the wastes of such products and is suitable for use as fuel in diesel engines.
- (3) "Biodiesel blend" means any fuel produced by blending biodiesel with petroleum-based diesel to produce a fuel suitable for use in diesel engines.

(4) "Bond" means:

(a) A surety bond, in an amount required by this chapter, duly executed by a surety company licensed and authorized to do business in this state conditioned upon faithful performance of all requirements of this chapter, including the payment of all taxes, penalties and other obligations arising out of the provisions of this chapter; or

(b) A deposit with the commission by any person required to be licensed pursuant to this chapter under terms and conditions as the commission may prescribe, of a like amount of lawful money of the United States or bonds or other obligations of the United States, the state of Idaho, or any county of the state; or

(c) An irrevocable letter of credit issued to the commission by a bank doing business in this state payable to the state upon failure of the person on whose behalf it is issued to remit any payment due under the provisions of this chapter.

(5) "Commercial motor boat" means any boat, equipped with a motor, which is wholly or partly used in a profit-making enterprise or in an enterprise conducted with the intent of making a profit.

(6) "Commission" means the state tax commission of the state of Idaho.

(7) "Distributor" means any person who receives motor fuel in this state, and includes a special fuels dealer. Any person who sells or receives gaseous fuels will not be considered a distributor unless the gaseous fuel is delivered into the fuel supply tank or tanks of a motor vehicle not then owned or controlled by him.

(8) "Dyed fuel" means diesel fuel that is dyed pursuant to requirements of the internal revenue service, or the environmental protection agency.

(9) "Exported" means delivered by truck or rail across the boundaries of this state by or for the seller or purchaser from a place of origin in this state.

(10) "Gasohol" means gasoline blended with ten percent (10%) or more of anhydrous ethanol.

(11) "Gasoline" means any mixture of volatile hydrocarbons suitable as a fuel for the propulsion of motor vehicles or motor boats. "Gasoline" also means aircraft engine fuels when used for the operation or propulsion of motor vehicles or motor boats and includes gasohol, but does not include special fuels.

(12) "Highways" means every place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel which is maintained by the state of Idaho or an agency or taxing subdivision or unit thereof or the federal government or an agency or instrumentality thereof. Provided, however, if the cost of maintaining a roadway is primarily borne by a special fuels user who operates motor vehicles on that roadway pursuant to a written contract during any period of time that a special fuels tax liability accrues to the user, such a roadway shall not be considered a "highway" for any purpose related to calculating that user's special fuels' tax liability or refund.

(13) "Idling" means the period of time greater than twenty-five hundredths (.25) of an hour when a motor vehicle is stationary with the engine operating at less than one thousand two hundred (1,200) revolutions per minute (RPM), without the power take-off (PTO) unit engaged, with the transmission in the neutral or park position, and with the parking brake set.

(14) "Imported" means delivered by truck or rail across the boundaries of this state by or for the seller or purchaser from a place of origin outside this state.

(15) "International fuel tax agreement" and "IFTA" mean the international fuel tax agreement required by the intermodal surface transportation efficiency act of 1991, Public Law 102-240, 105 Stat. 1914, and referred to in title 49, U.S.C., section 31701, including subsequent amendments to that agreement.



(16) "Jurisdiction" means a state of the United States, the District of Columbia, a province or territory of Canada, or a state, territory or agency of Mexico in the event that the state, territory or agency participates in the international fuel tax agreement.

(17) "Licensed motor fuel distributor" means any distributor who has obtained a license under the provisions of section 63-2427A, Idaho Code.

(18) "Motor fuel" means gasoline, ethanol, ethanol blended fuel, gasoline blend stocks, natural gasoline, special fuels, aircraft engine fuels or any other fuels suitable for the operation or propulsion of motor vehicles, motor boats or aircraft.

(19) "Motor vehicle" means every self-propelled vehicle designed for operation, or required to be licensed for operation, upon a highway.

(20) "Person" means any individual, firm, fiduciary, copartnership, association, limited liability company, corporation, governmental instrumentality including the state and all of its agencies and political subdivisions, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intent to give a more limited meaning is disclosed by the context. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term "person" as applied to an association means the partners or members, and as applied to corporations, the officers.

(21) "Recreational vehicle" means a snowmobile as defined in section 67-7101, Idaho Code; a motor driven cycle or motorcycle as defined in section 49-114, Idaho Code; any recreational vehicle as defined in section 49-119, Idaho Code; and an all-terrain vehicle as defined in section 67-7101, Idaho Code.

(22) "Retail dealer" means any person engaged in the retail sale of motor fuels to the public or for use in the state.

(23) "Special fuels" means:

(a) All fuel suitable as fuel for diesel engines;

(b) A compressed or liquified gas obtained as a byproduct in petroleum refining or natural gasoline manufacture, such as butane, isobutane, propane, propylene, butylenes, and their mixtures; and

(c) Natural gas, either liquid or gas, and hydrogen, used for the generation of power for the operation or propulsion of motor vehicles.

(24) "Special fuels dealer" means "distributor" under subsection (7) of this section.

(25) "Special fuels user" means any person who uses or consumes special fuels for the operation or propulsion of motor vehicles owned or controlled by him upon the highways of this state.

(26) "Use" means either:

(a) The receipt, delivery or placing of fuels by a licensed distributor or a special fuels dealer into the fuel supply tank or tanks of any motor vehicle not owned or controlled by him while the vehicle is within this state; or

(b) The consumption of fuels in the operation or propulsion of a motor vehicle on the highways of this state.

SECTION 2. That Section 63-2402, Idaho Code, be, and the same is hereby amended to read as follows:

63-2402. IMPOSITION OF TAX UPON MOTOR FUEL. (1) A tax is hereby imposed upon the distributor who receives motor fuel in this state. The legal incidence of the tax imposed under this section is borne by the distributor. The tax becomes due and payable upon receipt of the motor fuel in this state by the distributor unless such tax liability has previously accrued to another distributor pursuant to this section. The tax shall be imposed without regard to whether use is on a governmental basis or otherwise, unless exempted by this chapter.

(2) The tax imposed in this section shall be at the rate of twenty-five cents (25¢) per gallon of motor fuel received. This tax shall be subject to the exemptions, deductions and refunds set forth in this chapter.

(3) Nothing in this chapter shall prohibit the distributor who is liable for payment of the tax imposed under subsection (1) of this section from including as part of the selling price an amount equal to such tax on motor fuels sold or delivered by such distributor; provided however, that nothing in this chapter shall be deemed to impose tax liability on any person to whom such fuel is sold or delivered except as provided in subsection (6) of this section.

(4) Any person coming into this state in a motor vehicle may transport in the manufacturer's original tank of that vehicle, for his own use only, not more than thirty (30) gallons of motor fuel for the purpose of operating that motor vehicle, without complying with the provisions of this chapter.

(5) The tax imposed in this section does not apply to:

(a) Special fuels that have been dyed at a refinery or terminal under the provisions of 26 U.S.C. section 4082 and regulations adopted thereunder, or under the clean air act and regulations adopted thereunder ~~except as provided in section 63-2425, Idaho Code~~; or

(b) Special fuel dispensed into a motor vehicle which uses gaseous special fuels and which displays a valid gaseous special fuels permit under section 63-2424, Idaho Code; or

(c) Special fuels that are gaseous special fuels, as defined in section 63-2401, Idaho Code, except that part thereof that is delivered into the fuel supply tank or tanks of a motor vehicle; or

(d) Aircraft engine fuel subject to tax under section 63-2408, Idaho Code.

(6) Should the distributor of first receipt be exempt from imposition of the tax as a matter of federal law, by virtue of its status as a ~~federally-recognized~~ federally recognized Indian tribe or member of such tribe, such distributor shall not bear the tax's legal incidence and must pass the tax through as part of the selling price of the fuel. Such distributor shall retain the administrative obligation to remit the tax, and such obligation shall accrue upon receipt in accordance with subsection (1) of this section. Should a retailer otherwise subject to the tax be exempt from imposition of the tax as a matter of federal law, by virtue of its status as a ~~federally-recognized~~ federally recognized Indian tribe or member of such tribe, the retailer shall not bear the tax's legal incidence and must pass the tax through as part of the selling price of the fuel to the consumer, unless such consumer is exempt from imposition of the tax as a matter of federal law, by virtue of its status as a ~~federally-recognized~~ federally recognized Indian tribe or membership in such tribe, and the retailer shall be entitled to claim a credit against taxes otherwise due and owing under this chapter or a tax refund, together with interest, attributable to the fuel purchased by such consumer.

SECTION 3. That Section 63-2411, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Section 63-2425, Idaho Code, be, and the same is hereby amended to read as follows:

63-2425. DYED FUEL AND OTHER UNTAXED FUEL PROHIBITED FOR USE ON A HIGHWAY -- PENALTIES. (1) Except as provided in subsection (2) of this section, no person shall operate a motor vehicle on a highway in this state if the fuel supply tanks of the vehicle contain diesel fuel which has been dyed or marked at a refinery or terminal under the provisions of 26 U.S.C. section 4082 and regulations adopted thereunder, or under the clean air act and regulations

adopted thereunder, or contain other motor fuel on which the tax under section 63-2402, Idaho Code, has not been paid.

(2) The following vehicles may use dyed fuel on the highway but are subject to the tax under section 63-2402, Idaho Code, unless exempt under other provisions of this chapter:

(a) State and local government vehicles;

(b) Any vehicles which may use dyed fuel on the highway under the provisions of 26 U.S.C. section 4082 or regulations adopted thereunder.

~~(3) In addition to the provisions of section 63-2443, Idaho Code, any person violating the provisions of this section shall:~~

~~(a) Upon the first violation, be subject to a civil penalty in the amount of two hundred fifty dollars (\$250);~~

~~(b) Upon the second violation, be subject to a civil penalty in the amount of five hundred dollars (\$500); and~~

~~(c) Upon the third or subsequent violation, be subject to a civil penalty in the amount of one thousand dollars (\$1,000) for each such violation.~~

~~The commission may assess penalties under this subsection (3) as a deficiency in tax pursuant to sections 63-2434 and 63-3045, Idaho Code.~~

SECTION 5. That Section 63-2427A, Idaho Code, be, and the same is hereby amended to read as follows:

63-2427A. MOTOR FUEL DISTRIBUTOR'S LICENSE. (1) It is unlawful for a person to act as a motor fuel distributor without a motor fuel distributor license unless the. A person required to obtain such license is the first receiver of taxable motor fuel in Idaho. A person is not required to obtain a motor fuel distributor license when the person:

(a) Only purchases motor fuel on which any tax due under this chapter has previously been imposed upon a licensed distributor; or

(b) Only purchases dyed fuel upon which the transfer fee imposed in section 41-4909, Idaho Code, has been imposed upon a licensed distributor; or

(c) Only produces five thousand (5,000) gallons or less of biodiesel in a calendar year for that person's personal consumption. Any producer who sells or transfers any quantity of biodiesel to any other person is the first receiver of the biodiesel and is required to obtain a motor fuel distributor license.

(2) Application for a license shall be made upon forms furnished and in a manner prescribed by the commission and shall contain information as it deems necessary, and be. An application will not be accepted unless it is accompanied by a bond in the amount required in section 63-2428, Idaho Code. The commission shall not issue a motor fuel distributor license to any person who does not consent to be sued in Idaho district court for purposes of the state enforcing any provision of this chapter.

(3) Upon receipt of the application and bond in proper form the commission shall issue the applicant a license to act as a distributor unless the applicant:

(a) Is a person who formerly held a license under the provisions of this chapter, any predecessor statute, under the laws of any other jurisdiction, or under the laws of the United States which license, prior to the time of filing this application, had been revoked for cause within five (5) years from the date of such application; or

(b) Is a person who has outstanding fuel tax liabilities to or is in violation of the motor fuel laws of this state, any other jurisdiction or the United States government; or

(c) Is a person who has been convicted, under the laws of the United States or any state or jurisdiction or subdivision thereof, of fraud, tax evasion, or a violation of the laws governing the reporting and pay-

ment of fees or taxes for petroleum products within five (5) years from the date of making such application; or

(d) Is a person who has been convicted of a felony or been granted a withheld judgment following an adjudication of guilt of a felony within five (5) years from the date of such application; or

(e) Who is not the real party in interest and the real party in interest is a person described in subsection paragraph ~~(3)~~(a), ~~(3)~~(b), ~~(3)~~(c) or ~~(3)~~(d) of this subsection.

~~(4) The commission shall not issue a distributor's license to any person until that person has submitted to the commission a consent to be sued in Idaho district court for purposes of the state enforcing any provision of this chapter. The consent shall be submitted in such form and include such information as the commission may by rule require.~~

~~(5) Upon approval of the application, the distributor's license shall be valid until it is suspended canceled by the licensee or revoked for cause, for failure to maintain the bond required in section 63-2428, Idaho Code, for failure to file returns required in this chapter, for failure to pay all taxes and fees due with a return required in this chapter, or is otherwise canceled.~~

(65) No distributor's license shall be transferable.

(76) The commission shall furnish each licensed distributor with a list of all distributors licensed pursuant to this section. The list shall be supplemented by the commission from time to time to reflect additions and deletions.

SECTION 6. That Section 63-2427B, Idaho Code, be, and the same is hereby amended to read as follows:

63-2427B. LICENSED GASEOUS FUELS DISTRIBUTORS -- REPORTS. (1) In lieu of the motor fuel distributor's license required by section 63-2427A, Idaho Code, the commission may issue a gaseous fuels distributor's license to a distributor who applies for the license and who does not deal in fuel, other than gaseous fuels, except fuel which is either:

(a) Motor fuel on which any tax due under this chapter has previously been imposed upon a licensed distributor; or

(b) Dyed fuel upon which the transfer fee imposed in section 41-4909, Idaho Code, has been imposed upon a licensed distributor.

(2) Licensed gaseous fuels distributors shall, not later than the last day of each calendar month or for such other reporting period as the commission may authorize, render to the commission an accurate report of all gaseous fuels that are subject to tax under this chapter during the preceding reporting period. The report shall be made in the manner and on forms required by the commission and shall include such other information as the commission may require for the proper administration of this chapter.

SECTION 7. That Section 63-2427C, Idaho Code, be, and the same is hereby amended to read as follows:

63-2427C. ~~REVOCATION AND SUSPENSION OF LIMITED DISTRIBUTOR LICENSE -- PENALTIES.~~ (1) A limited distributor license will be issued under section 63-2427A or 63-2427B, Idaho Code, shall be held only by to persons actively engaged in activities requiring a license under this chapter. Any person not so engaged shall forthwith surrender his license to the commission for cancellation only required to remit the fee imposed by chapter 49, title 41, Idaho Code, and not required to obtain a license under section 63-2427A or 63-2427B, Idaho Code. The licensee is a licensed distributor for the purposes of filing reports, paying fees and other actions necessary for the proper administration of the petroleum clean water trust fund act. A limited

distributor license will not be valid for any other purpose. No bond shall be required for a limited distributor license.

~~(2) Whenever any person fails to comply with any provision of this chapter relating to the receipt, purchase, sale or offering for sale or distribution of motor fuel or any rules of the commission relating to motor fuels taxes prescribed and adopted under this chapter, the commission may revoke or suspend any license held by the person or may deny a new license to such person.~~

~~(3) The commission may revoke the license of a person not actively engaged in activities requiring a license under this section.~~

~~(4) Notice of revocation shall be given in the manner provided for deficiencies in taxes in section 63-3629, Idaho Code, which shall be subject to review as provided in section 63-3631, Idaho Code.~~

~~(5) A license, held by a person who for a period of twelve (12) consecutive months reports no motor fuels activity under this chapter, shall expire automatically upon the state tax commission providing notice of the expiration to the last known address of the person to whom the license was issued.~~

~~(6) A person who engaged in activities requiring a license under this chapter without such license or after a license has been revoked or suspended, and any person who is a responsible person, as defined in section 63-3627, Idaho Code, of such a business shall, after receiving written notice from the state tax commission, be subject to a civil penalty not in excess of one hundred dollars (\$100), and each day shall constitute a separate offense, which the state tax commission may assess as a deficiency pursuant to section 63-2434, Idaho Code.~~

SECTION 8. That Section 63-2428, Idaho Code, be, and the same is hereby amended to read as follows:

63-2428. BONDING. (1) At the time an application for a motor fuel distributor's license under section 63-2427A, Idaho Code, is submitted to the commission, the applicant shall file a bond with the commission conditioned upon faithful performance of all of the requirements of this chapter. The total amount of the bond shall be fixed by the commission and shall be equivalent to at least twice the estimated average tax liability for the reporting period for which the applicant will be required to file a distributor's report under section 63-2406, Idaho Code. The bond required by this section shall in no case be less than one thousand dollars (\$1,000) nor more than two hundred thousand dollars (\$200,000). Based on prior years' experience, the total amount required to be secured by the bond may be increased or reduced by the commission at any time. The bond will be waived if the commission is satisfied that the distributor has the financial responsibility to meet the required bond amount. Financial responsibility may be determined by the commission upon review of all relevant public documents including appropriate county records and records of tax payments to the state of Idaho. The distributor can be required to provide a commercial credit rating, balance sheet, or income statement to demonstrate present financial solvency, i.e. ownership of real and/or personal property, the unencumbered value of which exceeds the bond amount otherwise required. If such financial solvency is established, and if the distributor has been doing business in Idaho as a licensed distributor for five (5) or more consecutive years without a default in the payment of taxes imposed in this chapter, financial responsibility shall be presumed. Any bond given in conjunction with this chapter shall be a continuing instrument, and shall cover the period during which the license in connection with which the bond is given is in effect, unless the surety on the bond is released or discharged by the commission. Any surety on any bond furnished by a licensee shall be discharged and released from any and all liability to the state accruing on the bond after the expiration of thirty (30) days from the date upon which the surety shall have lodged with the commis-

sion a written request to be released and discharged. The request shall not operate to relieve, release or discharge the surety from any liability accrued, or which will accrue, before the expiration of the thirty (30) day period. The commission shall promptly, upon receipt of the notice of the request, notify the licensee and require him to furnish a new bond. Unless the licensee files a new bond with the commission in the amount provided in this section before the expiration of the thirty (30) day period, the commission shall immediately cancel the licensee's license.

(2) In the event that any taxes due under the provisions of this chapter are not paid by a licensed distributor, and the unpaid taxes are assessed by the commission, and after all avenues for appeal of the assessment have been exhausted, the commission may apply the unpaid tax liability against the bond required by this section.

SECTION 9. That Section 63-2430, Idaho Code, be, and the same is hereby repealed.

SECTION 10. That Section 63-2433, Idaho Code, be, and the same is hereby repealed.

SECTION 11. That Section 63-2441, Idaho Code, be, and the same is hereby repealed.

SECTION 12. That Section 63-2443, Idaho Code, be, and the same is hereby repealed.

SECTION 13. That Chapter 24, 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 63-2450, Idaho Code, and to read as follows:

63-2450. VIOLATIONS IN GENERAL. (1) It is unlawful for any person in the state of Idaho to:

- (a) Refuse or knowingly and intentionally fail to make and file any statement required by this chapter in the manner or within the time required;
- (b) Fail to pay any tax due or any fee required by this chapter or any related penalties or interest;
- (c) Knowingly make any false statement or conceal any material fact in any record, return or affidavit provided for in this chapter with intent to evade or to aid in the evasion of the tax imposed by this chapter;
- (d) Conduct any activities requiring a license under this chapter without an active license;
- (e) Fail to keep and maintain the books and records required by this chapter;
- (f) Use dyed or untaxed fuel in a manner prohibited by this chapter;
- (g) Violate any other provision of this chapter.

(2) It is unlawful to purchase, receive or accept any untaxed motor fuel unless authorized by this chapter.

(3) It is unlawful to sell or transfer any untaxed motor fuel unless authorized by this chapter.

SECTION 14. That Chapter 24, 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 63-2455, Idaho Code, and to read as follows:

63-2455. SPECIFIC VIOLATIONS. (1) It is unlawful for any person to operate a motor vehicle or consume any motor fuel in the propulsion of a motor vehicle over twenty-six thousand (26,000) pounds maximum gross weight on the highways of this state, except as provided in section 63-2438, Idaho Code, unless:

- (a) Such person is exempt from such requirement under section 63-2440, Idaho Code, or any other provision of state or federal law; or
  - (b) In the case of vehicles using a gaseous special fuel, such person has complied with section 63-2424, Idaho Code.
- (2) It is unlawful to display any international fuels tax agreement (IFTA) cab card or decal or temporary permit that:
- (a) Is fictitious or counterfeit; or
  - (b) Is owned by a person other than the owner, operator or lessee of the vehicle on which it is displayed.

SECTION 15. That Chapter 24, 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 63-2460, Idaho Code, and to read as follows:

63-2460. PENALTIES. (1) Any person who violates any provision of this chapter or who violates any provision of Idaho law relating to the assessment and collection of any unpaid tax or fee associated with this chapter is guilty of a misdemeanor, unless the violation is declared a felony by any other law of this state. Any person so convicted of a misdemeanor shall be punished by a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000). Each day that an unlicensed person engages in the activities of a licensed distributor constitutes a separate violation.

(2) In addition to the provisions of subsection (1) of this section, any person operating a vehicle licensed or required to be licensed on a highway in this state with diesel fuel in violation of section 63-2425, Idaho Code, will be subject to the following:

- (a) Upon the first violation, a civil penalty in the amount of two hundred fifty dollars (\$250);
- (b) Upon the second violation, a civil penalty in the amount of five hundred dollars (\$500); and
- (c) Upon the third or subsequent violation, a civil penalty in the amount of one thousand dollars (\$1,000) for each such violation.

(3) The commission may assess the penalties set forth in subsection (2) of this section as deficiencies in tax pursuant to sections 63-2434 and 63-3045, Idaho Code.

(4) Penalties are cumulative and each violation of the provisions of this chapter is subject to a separate penalty. The penalties provided for in this section shall be in addition to any other penalty imposed by any other provision of Idaho law.

SECTION 16. That Chapter 24, 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 63-2470, Idaho Code, and to read as follows:

63-2470. ENFORCEMENT OF LICENSING PROVISIONS. (1) A licensee may cancel his license at any time without prejudice, unless the commission has issued a notice of revocation letter to the licensee. If the licensee cancels his license after receiving a notice of revocation, then the cancellation will be treated as a revocation.

(2) All licenses issued under this chapter may be held only by persons actively engaged in activities requiring a license under this chapter. Any person not so engaged shall surrender his license to the commission for cancellation. A person is actively engaged in activities requiring a license under this chapter when such person is:

- (a) A distributor:
  - (i) Purchasing, selling or otherwise transferring motor fuel or other petroleum products or gaseous fuel decals; or
  - (ii) Reporting receipts, disbursements or other transactions subject to the motor fuel tax, transfer fee or gaseous fuel decals;

(b) An international fuel tax agreement (IFTA) licensee accruing reportable distance and fuel use in any IFTA jurisdiction. The IFTA licensee is not actively engaged in these activities when the requirements for cancellation or denial of renewal are met according to the IFTA articles of agreement, article III, section R345, license renewal (revised July 2013).

(3) A license authorized under this chapter may be denied, revoked or suspended when:

(a) The licensee or applicant fails to comply with the motor fuels laws of this state or any other jurisdiction; or

(b) The licensee does not maintain any required bond; or

(c) The licensee is not actively engaged in the activities identified in subsection (2) of this section for twelve (12) consecutive months.

(4) An IFTA licensee may appeal the denial, cancellation or revocation of an IFTA license following the procedure in the IFTA articles of agreement, article XIV (revised July 2013). The decision of the state tax commission is final and must be issued pursuant to section 63-3045B, Idaho Code, using a thirty (30) day appeal period.

(5) When the state tax commission decides to deny, cancel or revoke a distributor license, it shall immediately notify the person of that decision at the person's last known address. The notice must be accompanied by an explanation of the specific reason for the decision and the right to appeal the decision. Within sixty-three (63) days after the notice is mailed, the person may file a protest in writing requesting a review of the decision. The appeal must contain legal or factual reasons why the person disagrees with the decision. The person may not make any proceedings at court or other action until the appeal rights relating to the decision have become final.

(6) The decision of the state tax commission is final and must be issued pursuant to section 63-3045B, Idaho Code.

(7) The distributor may only appeal the denial of a properly completed application. When any of the required information is not provided, the state tax commission may consider the application incomplete and request additional information, return the application or deny the application.

(8) A person will not be issued a distributor license after one has previously been revoked, unless the state tax commission is satisfied that the former holder of the license will comply with all the requirements of this chapter and correct any other violations of this chapter upon which the revocation was based. All bonding requirements for the reinstated licensee must be met. A bond waiver may not be requested for five (5) years after the reinstatement of the license. A reinstated distributor's bond is not subject to the maximum bonding limits in section 63-2428, Idaho Code, but may not exceed the estimated tax liability for six (6) months.

(9) When a license is revoked within one (1) year of a previous revocation, there is no right to appeal the second revocation.

SECTION 17. That Section 40-510, Idaho Code, be, and the same is hereby amended to read as follows:

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

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



- (a) Sections 18-3906 and 18-8001, Idaho Code;
- (b) Sections 25-1105 and 25-1182(2), Idaho Code;
- (c) Sections 40-510 through 40-512, Idaho Code;
- (d) Chapters 1 through 5, 9, 10, ~~11~~, 15 through 19, 22 and 24, title 49, sections 49-619, 49-660, 49-1407, 49-1418 and 49-1427 through 49-1430, Idaho Code;
- (e) Sections 63-2438, 63-2440, 63-2441 and 63-2443 Authorized use of motor fuel on the highways and international fuel tax agreement (IFTA) provisions of chapter 24, title 63, Idaho Code; and
- (f) Section 67-2901A, Idaho Code.

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

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

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

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

Approved March 11, 2015

CHAPTER 39  
(H.B. No. 55)

AN ACT

RELATING TO THE PEACE OFFICER AND DETENTION OFFICER TEMPORARY DISABILITY ACT; REPEALING SECTION 2, CHAPTER 186, LAWS OF 2012, RELATING TO A SUNSET DATE.

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

SECTION 1. That Section 2, Chapter 186, Laws of 2012, be, and the same is hereby repealed.

Approved March 11, 2015

CHAPTER 40  
(H.B. No. 76)

AN ACT

RELATING TO DETERMINATION OF TAX LEVIES; AMENDING SECTION 50-2908, IDAHO CODE, TO PROVIDE FOR EMERGENCY FUNDS FOR THE SCHOOL EMERGENCY FUND LEVY TO BE INCLUDED ON THE BASE ASSESSMENT ROLL AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 50-2908, IDAHO CODE, AS ENACTED BY SECTION 11, CHAPTER 339, LAWS OF 2012, TO PROVIDE FOR EMERGENCY FUNDS FOR THE SCHOOL EMERGENCY FUND LEVY TO BE INCLUDED ON THE BASE ASSESSMENT ROLL 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 50-2908, Idaho Code, be, and the same is hereby amended to read as follows:

50-2908. DETERMINATION OF TAX LEVIES -- CREATION OF SPECIAL FUND. (1) For purposes of calculating the rate at which taxes shall be levied by or for each taxing district in which a revenue allocation area is located, the county commissioners shall, with respect to the taxable property located in such revenue allocation area, use the equalized assessed value of such taxable property as shown on the base assessment roll rather than on the current equalized assessed valuation of such taxable property, except the current equalized assessed valuation shall be used for calculating the tax rate for:

- (a) Levies for refunds and credits pursuant to section 63-1305, Idaho Code, and any judgment pursuant to section 33-802(1), Idaho Code, certified after December 31, 2007;
- (b) Levies for payment of judgments pursuant to section 63-1305A, Idaho Code;
- (c) Levies permitted pursuant to section 63-802(3), Idaho Code, certified after December 31, 2007;
- (d) Levies for voter approved general obligation bonds of any taxing district and plant facility reserve fund levies passed after December 31, 2007;
- (e) Levies set forth in paragraphs (1)(a) through (d) of this subsection, first certified prior to December 31, 2007, when the property affected by said levies is included within the boundaries of a revenue allocation area by a change in the boundaries of either the revenue allocation area or any taxing district after December 31, 2007; and
- (f) School levies for supplemental maintenance and operation pursuant to section 33-802(3) and (4), Idaho Code, approved after December 31, 2007, and for emergency funds pursuant to section 33-805, Idaho Code, approved after July 1, 2015.

(2) With respect to each such taxing district, the tax rate calculated under subsection (1) of this section shall be applied to the current equalized assessed valuation of all taxable property in the taxing district, including the taxable property in the revenue allocation area. The tax revenues thereby produced shall be allocated as follows:

- (a) To the taxing district shall be allocated and shall be paid by the county treasurer:
  - (i) All taxes levied by the taxing district or on its behalf on taxable property located within the taxing district but outside the revenue allocation area;
  - (ii) A portion of the taxes levied by the taxing district or on its behalf on the taxable property located within the revenue allocation area, which portion is the amount produced by applying the taxing district's tax rate determined under subsection (1) of this

section to the equalized assessed valuation, as shown on the base assessment roll, of the taxable property located within the revenue allocation area; and

(iii) All taxes levied by the taxing district to satisfy obligations specified in subsection (1) (a) through (f) of this section.

(b) To the urban renewal agency shall be allocated the balance, if any, of the taxes levied on the taxable property located within the revenue allocation area.

(3) Upon enactment of an ordinance adopting a revenue allocation financing provision as part of an urban renewal plan, the urban renewal agency shall create a special fund or funds to be used for the purposes enumerated in this chapter. The revenues allocated to the urban renewal agency pursuant to this chapter shall be paid to the agency by the treasurer of the county in which the revenue allocation district is located and shall be deposited by the agency into one (1) or more of such special funds. The agency may, in addition, deposit into such special fund or funds such other income, proceeds, revenues and funds it may receive from sources other than the revenues allocated to it under subsection (2) (b) of this section.

(4) For the purposes of section 63-803, Idaho Code, during the period when revenue allocation under this chapter is in effect, and solely with respect to any taxing district in which a revenue allocation area is located, the county commissioners shall, in fixing any tax levy other than the levy specified in subsection (1) (a) through (f) of this section, take into consideration the equalized assessed valuation of the taxable property situated in the revenue allocation area as shown in the base assessment roll, rather than the current equalized assessed value of such taxable property.

(5) For all other purposes, including, without limitation, for purposes of sections 33-802, 33-1002 and 63-1313, Idaho Code, reference in the Idaho Code to the term "market value for assessment purposes" (or any other such similar term) shall mean market value for assessment purposes as defined in section 63-208, Idaho Code.

SECTION 2. That Section 50-2908, Idaho Code, as enacted by Section 11, Chapter 339, Laws of 2012, be, and the same is hereby amended to read as follows:

50-2908. DETERMINATION OF TAX LEVIES -- CREATION OF SPECIAL FUND. (1) For purposes of calculating the rate at which taxes shall be levied by or for each taxing district in which a revenue allocation area is located, the county commissioners shall, with respect to the taxable property located in such revenue allocation area, use the equalized assessed value of such taxable property as shown on the base assessment roll rather than on the current equalized assessed valuation of such taxable property, except the current equalized assessed valuation shall be used for calculating the tax rate for:

(a) Levies for refunds and credits pursuant to section 63-1305, Idaho Code, and any judgment pursuant to section 33-802(1), Idaho Code, certified after December 31, 2007;

(b) Levies permitted pursuant to section 63-802(3), Idaho Code, certified after December 31, 2007;

(c) Levies for voter approved general obligation bonds of any taxing district and plant facility reserve fund levies passed after December 31, 2007;

(d) Levies set forth in paragraphs (1)(a) through (c) of this subsection, first certified prior to December 31, 2007, when the property affected by said levies is included within the boundaries of a revenue allocation area by a change in the boundaries of either the revenue allocation area or any taxing district after December 31, 2007; and

(e) School levies for supplemental maintenance and operation pursuant to section 33-802(3) and (4), Idaho Code, approved after December 31,

2007, and for emergency funds pursuant to section 33-805, Idaho Code, approved after July 1, 2015.

(2) With respect to each such taxing district, the tax rate calculated under subsection (1) of this section shall be applied to the current equalized assessed valuation of all taxable property in the taxing district, including the taxable property in the revenue allocation area. The tax revenues thereby produced shall be allocated as follows:

(a) To the taxing district shall be allocated and shall be paid by the county treasurer:

(i) All taxes levied by the taxing district or on its behalf on taxable property located within the taxing district but outside the revenue allocation area;

(ii) A portion of the taxes levied by the taxing district or on its behalf on the taxable property located within the revenue allocation area, which portion is the amount produced by applying the taxing district's tax rate determined under subsection (1) of this section to the equalized assessed valuation, as shown on the base assessment roll, of the taxable property located within the revenue allocation area; and

(iii) All taxes levied by the taxing district to satisfy obligations specified in subsection (1) (a) through (e) of this section.

(b) To the urban renewal agency shall be allocated the balance, if any, of the taxes levied on the taxable property located within the revenue allocation area.

(3) Upon enactment of an ordinance adopting a revenue allocation financing provision as part of an urban renewal plan, the urban renewal agency shall create a special fund or funds to be used for the purposes enumerated in this chapter. The revenues allocated to the urban renewal agency pursuant to this chapter shall be paid to the agency by the treasurer of the county in which the revenue allocation district is located and shall be deposited by the agency into one (1) or more of such special funds. The agency may, in addition, deposit into such special fund or funds such other income, proceeds, revenues and funds it may receive from sources other than the revenues allocated to it under subsection (2) (b) of this section.

(4) For the purposes of section 63-803, Idaho Code, during the period when revenue allocation under this chapter is in effect, and solely with respect to any taxing district in which a revenue allocation area is located, the county commissioners shall, in fixing any tax levy other than the levy specified in subsection (1) (a) through (e) of this section, take into consideration the equalized assessed valuation of the taxable property situated in the revenue allocation area as shown in the base assessment roll, rather than the current equalized assessed value of such taxable property.

(5) For all other purposes, including, without limitation, for purposes of sections 33-802, 33-1002 and 63-1313, Idaho Code, reference in the Idaho Code to the term "market value for assessment purposes" (or any other such similar term) shall mean market value for assessment purposes as defined in section 63-208, Idaho Code.

SECTION 3. The provisions of Section 2 of this act shall be in full force and effect on and after July 1, 2017.

Approved March 11, 2015

CHAPTER 41  
(H.B. No. 85)

AN ACT

RELATING TO INCOME TAXATION; AMENDING SECTION 63-3022H, IDAHO CODE, TO PROVIDE FOR CAPITAL GAINS PURPOSES THAT THE HOLDING PERIOD OF QUALIFYING PROPERTY THAT WAS DISTRIBUTED BY AN S CORPORATION OR AN ENTITY TREATED AS A PARTNERSHIP TO A PERSON WHO WAS AN OWNER, MEMBER OR PARTNER AT THE TIME OF THE DISTRIBUTION SHALL, FOR THAT PERSON, INCLUDE THE AMOUNT OF TIME THAT THE S CORPORATION OR THE ENTITY HELD THE PROPERTY, REGARDLESS OF WHETHER THE DISTRIBUTION WAS A LIQUIDATING DISTRIBUTION; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

63-3022H. DEDUCTION OF CAPITAL GAINS. (1) If an individual taxpayer reports capital gain net income in determining taxable income, eighty percent (80%) in taxable year 2001 and sixty percent (60%) in taxable years thereafter of the capital gain net income from the sale or exchange of qualified property shall be a deduction in determining Idaho taxable income.

(2) The deduction provided in this section is limited to the amount of the capital gain net income from all property included in taxable income. Gains treated as ordinary income by the Internal Revenue Code do not qualify for the deduction allowed in this section. The deduction otherwise allowable under this section shall be reduced by the amount of any federal capital gains deduction relating to such property, but not below zero.

(3) Property held by an estate, trust, S corporation, partnership, limited liability company or an individual is "qualified property" under this section if the property had an Idaho situs at the time of sale and is:

(a) Real property held at least twelve (12) months;

(b) Tangible personal property used in Idaho for at least twelve (12) months by a revenue-producing enterprise;

(c) Cattle or horses held for breeding, draft, dairy or sporting purposes for at least twenty-four (24) months if more than one-half (1/2) of the taxpayer's gross income (as defined in section 61(a) of the Internal Revenue Code) for the taxable year is from farming or ranching operations in Idaho;

(d) Breeding livestock other than cattle or horses held at least twelve (12) months if more than one-half (1/2) of the taxpayer's gross income (as defined in section 61(a) of the Internal Revenue Code) for the taxable year is from farming or ranching operations in Idaho;

(e) Timber grown in Idaho and held at least twenty-four (24) months;

(f) In determining the period for which property subject to this section has been held by a taxpayer, the provisions of section 1223 of the Internal Revenue Code shall apply, except that the holding period shall not include the holding period of property given up in an exchange, when such property would not have constituted qualified property under this section without regard to meeting the holding period nor shall the holding period include any time period in which the property subject to this section was held by a corporation other than an S corporation. Notwithstanding the preceding sentence, the holding period of qualifying property that was distributed by an S corporation or an entity treated as a partnership to a person who was an owner, member or partner at the time of the distribution shall, for that person, include the

amount of time that the S corporation or the entity held the property, regardless of whether the distribution was a liquidating distribution.

(4) As used in this section "revenue-producing enterprise" means:

(a) The production, assembly, fabrication, manufacture, or processing of any agricultural, mineral or manufactured product;

(b) The storage, warehousing, distribution, or sale at wholesale of any products of agriculture, mining or manufacturing;

(c) The feeding of livestock at a feedlot;

(d) The operation of laboratories or other facilities for scientific, agricultural, animal husbandry, or industrial research, development, or testing.

(5) As used in this section the term "real property" means land and other tangible property permanently upon or affixed to the land.

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, 2015.

Approved March 11, 2015

CHAPTER 42  
(H.B. No. 96)

AN ACT

RELATING TO DRIVER'S LICENSES AND IDENTIFICATION CARDS; AMENDING SECTION 40-322, IDAHO CODE, TO PROVIDE FOR THE SUBMITTAL OF COMPLIANCE EXTENSION REQUESTS TO THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY, TO PROVIDE THAT THE IDAHO TRANSPORTATION BOARD AND THE IDAHO TRANSPORTATION DEPARTMENT ARE NOT PREVENTED FROM TAKING NECESSARY STEPS TO ENSURE THE ACCEPTANCE OF DRIVER'S LICENSES AND IDENTIFICATION CARDS FOR COMMERCIAL AIRLINE TRAVEL AND TO PROVIDE THAT THE DEPARTMENT SHALL REPORT SPECIFIED INFORMATION TO CERTAIN LEGISLATIVE COMMITTEES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 40-322, Idaho Code, be, and the same is hereby amended to read as follows:

40-322. DIRECTIVE ON IMPLEMENTATION OF THE FEDERAL REAL ID ACT OF 2005. (1) The legislature finds that the enactment into law by the U.S. congress of the REAL ID act of 2005, as part of public law 109-13, is inimical to the security and well-being of the people of Idaho, will cause unneeded expense and inconvenience to those people and was adopted by the U.S. congress in violation of the principles of federalism contained in the 10th amendment to the constitution of the United States.

(2) The legislature hereby declares that the state of Idaho shall not participate in the implementation of the REAL ID act of 2005, except to submit compliance extension requests and status reports to the United States department of homeland security. The Idaho transportation board and the Idaho transportation department, including the motor vehicles division of the Idaho transportation department are directed not to implement the provisions of the REAL ID act of 2005, except to submit compliance extension requests and status reports to the United States department of homeland security.

(3) Nothing in this act shall prevent the Idaho transportation board and the Idaho transportation department from taking reasonable and neces-

sary steps to enhance the security of Idaho state driver's licenses and identification cards to ensure their acceptance for commercial airline travel within the United States.

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

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

Approved March 11, 2015

CHAPTER 43  
(H.B. No. 70)

AN ACT

RELATING TO ALLOWABLE LOADS PER INCH WIDTH OF TIRE FOR MOTOR VEHICLES; AMENDING SECTION 49-1002, IDAHO CODE, TO PROVIDE THAT THE LOAD FOR INCH WIDTH OF TIRE FOR THE FRONT STEER AXLE MAY NOT EXCEED THE MANUFACTURER'S LOAD RATING PER TIRE OR THE LOAD RATING OF THE AXLE OR TWENTY THOUSAND POUNDS PER AXLE WHICHEVER IS LESS AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 49-1002, Idaho Code, be, and the same is hereby amended to read as follows:

49-1002. ALLOWABLE LOAD PER INCH WIDTH OF TIRE. (1) Load for inch width of tire for the front steer axle may not exceed the manufacturer's load rating per tire or the load rating of the axle or twenty thousand (20,000) pounds per axle whichever is less. The maximum allowable load for any all other vehicle tires operated on any public highway shall not exceed six hundred (600) pounds per inch width of tire and shall not exceed the manufacturer's load rating, whichever is less. The width of a tire shall be determined by the manufacturer's description marked on the sidewall of the tire. Tires on vehicles manufactured prior to July 1, 1987, may exceed the six hundred (600) pounds per inch width of tire limit subject to a maximum of eight hundred (800) pounds per inch width of tire. This section shall not apply to nonreducible overweight and/or oversize vehicles and/or loads as authorized under section 49-1004, Idaho Code.

(2) Except as provided herein, no vehicle or combination of vehicles may proceed past the place of weighing at temporary or permanent ports of entry or checking stations when the weight carried on a single tire, as determined by dividing the weight carried on an axle or group of axles by the number of wheels on the axle or group of axles, exceeds on a single axle the allowable weight above by two thousand (2,000) pounds or more or the weight of a combination of axles exceeds the allowable weight above by seven percent (7%) or more. Vehicles or combinations of vehicles which exceed the weight

limitations set forth herein shall be required to be brought into compliance with the applicable weight per inch width of tire contained within this subsection prior to continuing except those vehicles or combinations of vehicles which are transporting loads which, in the determination of the board or other proper authorities in charge of or having jurisdiction over a highway, are deemed unsafe or impractical to bring into compliance at the place of weighing. Vehicles or combinations of vehicles transporting loads in this latter category shall obtain a travel authorization to the nearest place of safe unloading, load adjustment or other means of legalization.

(a) Neither the state of Idaho or its employees, nor any authority and its employees in charge of or having jurisdiction over a highway, shall be held liable for personal injury or property damage resulting from the requirements of section 49-1001(8), Idaho Code.

(b) The fee for a travel authorization as set forth above shall be fifty dollars (\$50.00) and shall be on a form prescribed by the board or other proper authorities.

(c) The board or other proper authorities in charge of or having jurisdiction over a highway shall adopt and enforce administrative rules as may be necessary to carry out the provisions of this section.

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

Approved March 13, 2015

CHAPTER 44  
(S.B. No. 1020)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-111, IDAHO CODE, TO PROVIDE CERTAIN EXEMPTIONS RELATING TO THE PAYMENT OF MONEYS INTO THE FISH AND GAME SET-ASIDE ACCOUNT, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 36-111, Idaho Code, be, and the same is hereby amended to read as follows:

36-111. FISH AND GAME SET-ASIDE ACCOUNT. (1) There is hereby established the fish and game set-aside account in the dedicated fund. The account shall have paid into it moneys as follows:

(a) Four dollars (\$4.00) of each steelhead trout or anadromous salmon permit sold, except that class 7 permits shall be exempt from this provision. Moneys from this source shall be used for the acquisition, development and maintenance of parking areas, access sites, boat ramps and sanitation facilities in salmon and steelhead fishing areas, for management of and research on steelhead trout and anadromous salmon problems, and for technical assistance with litigation concerning steelhead and anadromous salmon originating in Idaho.

(b) Two dollars (\$2.00) from each combination hunting and fishing license, or each hunting license sold, as provided in sections 36-406 and 36-407, Idaho Code, except that class 4 and class 7 licenses shall be exempt from this provision. Moneys from this source shall be used for the purposes of acquiring access to and acquiring and rehabilitating big game ranges and upland bird and waterfowl habitats. Unless it is



inconsistent with the goals of the commission, it is the intent of the legislature that the commission negotiate lease arrangements as compared with outright purchase of private property.

(c) One dollar and fifty cents (\$1.50) from each pronghorn antelope, elk and deer tag sold as provided in section 36-409, Idaho Code, except that class 7 tags shall be exempt from this provision. Not less than seventy-five cents (75¢) of each one dollar and fifty cents (\$1.50) collected shall be placed in a separate account to be designated as a feeding account. Moneys in this account shall be used exclusively for the purposes of actual supplemental winter feeding of pronghorn antelope, elk and deer. Moneys shall be used solely for the purchase of blocks, pellets and hay for such winter feeding purposes and/or for the purchase of seed or other material that can be shown to directly provide feed or forage for the winter feeding of pronghorn antelope, elk and deer. The balance of moneys realized from this source may be used for the control of depredation of private property by pronghorn antelope, elk and deer and control of predators affecting pronghorn antelope, elk and deer. Moneys in the feeding account shall not be used for any purpose other than winter feeding as herein specified. Moneys in the feeding account may not be expended except upon the declaration of a feeding emergency by the director of the department of fish and game. Such emergency need not exist on a statewide basis but can be declared with respect to one (1) or more regions of the state. The department shall by rule establish the criteria for a feeding emergency. The department shall submit a yearly report to the senate resources and environment committee and the house resources and conservation committee of the legislature on or before ~~the 31st day of July~~ July 31, detailing how funds in the feeding account have been expended during the preceding fiscal year.

(d) Those amounts designated by individuals in accordance with section 63-3067A(3)(a), Idaho Code, and from fees paid under the provisions of section 49-417, Idaho Code. Moneys from these sources shall be used for a nongame management and protection program under the direction of the fish and game commission.

(e) Money derived from the assessment of processing fees. Moneys derived from this source shall be used as provided in section 36-1407, Idaho Code.

(2) Moneys in the fish and game set-aside account and the feeding account established in subsection (1)(c) of this section are subject to appropriation, and the provisions of section 67-3516, Idaho Code. Moneys in the fish and game set-aside account and the feeding account shall be invested by the state treasurer in the manner provided for investment of idle state moneys in the state treasury by section 67-1210, Idaho Code, with interest earned on investments from each account to be paid into that account.

Approved March 16, 2015

CHAPTER 45  
(S.B. No. 1036)

AN ACT

RELATING TO DENTISTRY; AMENDING SECTION 54-923, IDAHO CODE, TO REQUIRE LICENSEES TO PROVIDE NOTICE OF FELONY CONVICTIONS.

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

SECTION 1. That Section 54-923, Idaho Code, be, and the same is hereby amended to read as follows:

54-923. REVOCATION FOR CONVICTIONS OF CRIME. A certificate or other evidence of qualification and right to practice dentistry, a dental specialty or dental hygiene, and a license, may be revoked by the board whenever it shall be shown to the board that the holder of such certificate or other evidence of qualification, right to practice or license has been convicted of a felony, or of a misdemeanor involving moral turpitude, whether such conviction shall have occurred before or after qualification, or accrual of such right, or the issuance of such certificate or other evidence of qualification, or of such license. A person licensed to practice dentistry, a dental specialty or dental hygiene who is convicted of a felony in any jurisdiction shall notify the board within thirty (30) days of conviction by submitting a copy of the judgment of conviction to the board.

Approved March 16, 2015

CHAPTER 46  
(S.B. No. 1042)

AN ACT

RELATING TO RESIDENTIAL CARE; AMENDING SECTION 39-3340, IDAHO CODE, TO PROVIDE THAT A CHANGE OF LEASE DOES NOT REQUIRE FACILITY RELICENSING AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 39-3340, Idaho Code, be, and the same is hereby amended to read as follows:

39-3340. LICENSING. (1) Any person, firm, partnership, association, governmental unit, or corporation within the state proposing to operate, establish, manage, conduct, or maintain a residential care or assisted living facility in the state shall have a license issued by the licensing agency of the department. A license is not transferable. The owner of the license has ultimate responsibility for the operation of the facility.

(2) Each residential care or assisted living facility in the state requires an administrator, properly licensed by the bureau of occupational licensing, who is responsible for the day-to-day operation of the facility.

(3) A license is not transferable from one (1) individual to another, from one (1) business entity to another, or from one (1) location to another. When a change of operator, ownership, lease or location occurs, the facility shall be relicensed, and the operator shall follow the application procedures, and obtain a license, before commencing operation as a facility. When there is a significant change in an owner's share of the facility, ~~but which that~~ does not alter the overall ownership or operation of the business, that change shall be communicated to the licensing agency within sixty (60) days of the effective date of the change. When the owner contracts the operation to a facility management company, other than for temporary management, it shall be treated as a change of operator.

Approved March 16, 2015

CHAPTER 47  
(S.B. No. 1043)

AN ACT

RELATING TO CERTIFIED FAMILY HOMES; AMENDING SECTION 39-3502, IDAHO CODE, TO DEFINE A TERM AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 39-3512, IDAHO CODE, TO PROVIDE THAT MEDICAL FOSTER HOMES ARE EXEMPT FROM CERTIFICATION REQUIREMENTS UNDER CERTAIN CIRCUMSTANCES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 39-3502, Idaho Code, be, and the same is hereby amended to read as follows:

39-3502. DEFINITIONS. As used in this chapter:

(1) "Abuse" means a nonaccidental act of sexual, physical or mental mistreatment or injury of a resident through the action or inaction of another individual.

(2) "Activities of daily living" means the performance of basic self-care activities in meeting an individual's needs to sustain him in a daily living environment.

(3) "Adult" means a person who has attained the age of eighteen (18) years.

(4) "Advocate" means an authorized or designated representative of a program or organization operating under federal or state mandate to represent the interests of a population group served by the certified family home.

(5) "Assessment" means the conclusion reached using uniform criteria which identifies resident strengths, weaknesses, risks and needs, to include functional, medical and behavioral. The assessment criteria shall be developed by the department and the advisory council.

(6) "Board" means the board of health and welfare.

(7) "Care provider" means the adult member of the home family responsible for maintaining the certified family home. The care provider and the legal owner may not necessarily be the same person. The care provider must live in the home.

(8) "Certified family home" means a family-styled living environment in which two (2) or fewer adults live who are not able to reside in their own home and who require care, help in daily living, protection and security, supervision, personal assistance and encouragement toward independence.

(9) "Certifying agent" means a person acting under the authority of the department to participate in the certification, inspection, and regulation of a family home.

(10) "Chemical restraint" means any drug that is used for discipline or convenience and not required to treat medical symptoms.

(11) "Client" means any person who receives financial aid and/or services from an organized program of the department.

(12) "Core issues" means abuse, neglect, exploitation, inadequate care, inoperable fire detection or extinguishing systems with no fire watch in place pending the correction of the system, and situations in which advocates, representatives and department certification staff are denied access to records, residents, or the certified family home.

(13) "Department" means the Idaho department of health and welfare.

(14) "Director" means the director of the Idaho department of health and welfare.

(15) "Exploitation" means the misuse of a vulnerable adult's funds, property or resources by another person for profit or advantage.

(16) "Governmental unit" means the state, any county, any city, other political subdivision, or any department, division, board or other agency thereof.

(17) "Home family" means all individuals related by blood, marriage, or adoption, other than residents, residing in the certified family home.

(18) "Inadequate care" occurs when a certified family home fails to provide the services required to meet the terms of the negotiated plan of service or provide for room, board, activities of daily living, supervision, first aid, assistance and monitoring of medications, emergency intervention, coordination of outside services, or a safe living environment; or engages in violations of residents' rights or takes residents who have been admitted in violation of the provisions of section 39-3507, Idaho Code.

(19) "Medical foster home" means a private home approved by the department of veterans affairs in which a caregiver provides long-term primary health care to veteran residents with serious chronic disease and disability, as described in 38 CFR part 17.

(20) "Neglect" means failure to provide food, clothing, shelter, or medical care necessary to sustain life and health of a resident.

(201) "Negotiated service agreement" means the agreement reached by the resident or their representative, if applicable, and the facility, based on the assessment, physician's orders if any, admission records if any, and desires of the resident, and which outlines services to be provided and the obligations of the certified family home and the resident.

(212) "Personal assistance" means the provision by the certified family home of one (1) or more of the following services:

(a) Assisting the resident with activities of daily living.

(b) Arranging for supportive services.

(c) Being aware of the resident's general whereabouts.

(d) Monitoring the activities of the resident while on the premises of the facility to ensure the resident's health, safety and well-being.

(223) "Political subdivision" means a city or county.

(234) "Representative of the department" means an employee of the department.

(245) "Resident" means an adult who lives in a certified family home and who requires personal assistance or supervision.

(256) "Room and board" means lodging and meals.

(267) "Substantial compliance" means a certified family home has no core issue deficiencies.

(278) "Substitute caregiver" means an adult designated by the certified family home provider to provide care and services in a certified family home in the temporary absence of the regular care provider.

(289) "Supervision" means administrative activity which provides the following: protection, guidance, knowledge of the resident's whereabouts and monitoring activities. The care provider is responsible for providing

appropriate supervision based on each resident's negotiated service agreement.

(2930) "Supportive services" means the specific services that are provided to the resident in the community and that are required by the negotiated service agreement or reasonably requested by the resident.

SECTION 2. That Section 39-3512, Idaho Code, be, and the same is hereby amended to read as follows:

39-3512. APPLICATION OF PROVISIONS. (1) Any individual providing care and housing commercially to the elderly, or individuals with mental illness, developmental disabilities, or physical disabilities shall at a minimum, meet the requirements of this chapter or other provision of law governing care and housing for the elderly, individuals with mental illness, developmental disabilities, or physical disabilities if those provisions are more restrictive.

(2) Medical foster homes are exempt from the certification requirements under this chapter if the home provides care only to veterans who are not medicaid recipients and who are approved by the department of veterans affairs to receive care in the home.

(3) Homes that provide care to nonveterans as well as veterans shall not be exempt from the certification requirements of this chapter.

Approved March 16, 2015

CHAPTER 48  
(S.B. No. 1079)

AN ACT

RELATING TO ENGINEERS AND SURVEYORS; AMENDING SECTION 50-1304, IDAHO CODE, TO REVISE THE REQUIRED FORM OF A PLAT OFFERED FOR RECORD AND TO PROVIDE FOR NEW REQUIREMENTS ON WHAT SHALL BE DISPLAYED ON A PLAT; AMENDING SECTION 50-1310, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO PROVIDE A CODE REFERENCE; AMENDING SECTION 54-1212, IDAHO CODE, TO REVISE TERMINOLOGY RELATING TO CERTIFICATION AS AN INTERN AND ASSIGNMENT TO PROFESSIONAL EXAMINATIONS AND TO REVISE THE QUALIFICATIONS FOR CERTIFICATION AS AN ENGINEER INTERN OR LAND SURVEY INTERN; AMENDING SECTION 54-1214, IDAHO CODE, TO CLARIFY LANGUAGE RELATING TO FAILURE OF ALL OR PART OF AN EXAMINATION; AMENDING SECTION 54-1234, IDAHO CODE, TO CLARIFY LANGUAGE RELATING TO THE DEFACING OF MONUMENTATION; AMENDING SECTION 55-1905, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE, TO PROVIDE A CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 55-1906, IDAHO CODE, TO REVISE LANGUAGE RELATING TO REQUIRED CONTENT FOR A RECORD OF SURVEY.

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

SECTION 1. That Section 50-1304, Idaho Code, be, and the same is hereby amended to read as follows:

50-1304. ESSENTIALS OF PLATS. (1) All plats offered for record in any county shall be prepared in black opaque image upon stable base drafting film with a minimum base thickness of 0.003 inches, by either. The image thereon shall be by a photographic process using a silver image emulsion or by use of a or a process by which a copy is produced using an ink jet or digital scanning and reproduction machine with black opaque drafting film ink, by mechanical or handwritten means or fused toner that will ensure archival permanence. The drafting film copy and image thereon shall be waterproof, tear

resistant, flexible, and capable of withstanding repeated handling, as well as providing archival permanence. If ink or toner is used on ~~drafting film~~, the ink surface shall be coated with a suitable substance, if required by the county where the plat is to be recorded, to assure permanent legibility. ~~The drafting film must be of a type which can be reproduced by either a photographic or diazo process.~~ Plats shall be eighteen (18) inches by twenty-seven (27) inches in size, with a three and one-half (3 1/2) inch margin at the left end for binding and a one-half (1/2) inch margin on all other edges. No part of the drawing or certificates shall encroach upon the margins. Signatures shall be in reproducible black ink. The sheet or sheets which contain the drawing or diagram representing the survey of the subdivision shall be drawn at a scale suitable to ensure the clarity of all lines, bearings and dimensions. In the event that any subdivision is of such magnitude that the drawing or diagram cannot be placed on a single sheet, serially numbered sheets shall be prepared and match lines shall be indicated on the drawing or diagram with appropriate references to other sheets. The required dedications, acknowledgments and certifications shall appear on any of the serially numbered sheets.

(2) The plat shall show: (a) the streets and alleys, with widths and courses clearly shown; (b) each street named; (c) all lots numbered consecutively in each block, and each block lettered or numbered, provided however, in a platted cemetery, that each block, section, district or division and each burial lot shall be designated by number or letter or name; (d) each and all lengths of the boundaries of each lot shall be shown, provided however, in a platted cemetery, that lengths of the boundaries of each burial lot may be shown by appropriate legend; (e) the exterior boundaries shown by distance and bearing; (f) descriptions of survey monuments; (g) point of beginning with ties to at least two (2) public land survey corner monuments in one (1) or more of the sections containing the subdivision, or in lieu of public land survey corner monuments, to two (2) monuments recognized by the county surveyor; and also, if required by the city or county governing bodies, give coordinates based on the Idaho coordinate system; (h) the easements; (i) basis of bearings, bearing and length of lines, graphic scale of plat and north arrow; and (j) subdivision name.

(3) When coordinates in the Idaho coordinate system are shown on a plat, the plat must show the national spatial reference system monuments and their coordinates used as the basis of the survey; the zone; the datum and adjustment; and the combined adjustment factor and the convergence angle and the location where they were computed.

SECTION 2. That Section 50-1310, Idaho Code, be, and the same is hereby amended to read as follows:

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

(2) At the time of filing such plat, the owner or his representative shall also file with the county clerk or county recorder one (1) copy thereof. ~~The copy shall be upon stable base drafting film with a minimum base thickness of 0.003 inches. The image thereon shall be by a photographic process using a silver image emulsion, or a process by which a copy is produced using a copy machine or by digital scanning and reproduction using black opaque drafting film ink. If a copy machine or ink is used, the surface shall be coated with a suitable substance to assure permanent legibility. The copy and image thereon shall be waterproof, tear-resistant, flexible, and capable of withstanding repeated handling, as well as providing archival~~

permanence The plat media and copy process shall be as provided in section 50-1304, Idaho Code. The original plat shall be stored for safekeeping in a reproducible condition by the county. It shall be proper for the recorder to maintain for public reference a set of counter maps that are prints of the original maps. The original maps shall be produced for comparison upon demand. Full scale copies thereof shall be made available to the public, at the cost allowed in section 31-3205, Idaho Code, by the county recorder.

SECTION 3. 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 certification as an intern or assignment to a professional engineering or professional land surveying 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~~ Passage of an examination on the fundamentals of engineering and 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 and indicating that the applicant is competent to enroll as an engineer intern;  
or

(b) Passage of an examination on the fundamentals of engineering and 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; or

(c) Passage of an examination on the fundamentals of engineering and graduation with an engineering master's or doctoral degree 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 engineering program, and indicating that the applicant is competent to be enrolled as an engineer intern.

(d) ~~In the event the applicant qualifies for assignment to passes the examination during the last two (2) semesters of college prior to graduation under the provisions of section 54-1212(3) paragraph (a), (b) or (c) of this subsection, 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,~~ Passage of an examination on the fundamentals of surveying and 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 and indicating that the applicant is competent to be enrolled as a land surveyor intern; or

(b) ~~Graduation~~ Passage of an examination on the fundamentals of surveying and 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 passes the examination during the last two (2) semesters of prior to graduation from college under the provisions of subsection (4) paragraph (a) or (b) of this subsection, 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 4. That Section 54-1214, Idaho Code, be, and the same is hereby amended to read as follows:

54-1214. EXAMINATIONS. (1) Examinations will be held at such times and places as the board directs. The board shall determine the acceptable grade on examinations.

(2) Written examinations may be taken only after the applicant has met the other minimum requirements as given in section 54-1212, Idaho Code, and has been approved by the board for admission to the examinations as follows:

(a) Fundamentals of Engineering -- The examination consists of a test on the fundamentals of engineering acceptable to the board. Passing this examination qualifies the examinee for an engineer intern certificate, provided he has met all other requirements of certification required by this chapter.

(b) Principles and Practice of Engineering -- The examination consists of a test on applied engineering acceptable to the board. Passing this examination qualifies the examinee for licensure as a professional engineer, provided he has met the other requirements for licensure required by this chapter.

(c) Fundamentals of Surveying -- The examination consists of a test on the fundamentals of surveying acceptable to the board. Passing this examination qualifies the examinee for a land surveyor intern certificate, provided he has met all other requirements for certification required by this chapter.

(d) Principles and Practice of Surveying -- The examination consists of a test on applied surveying acceptable to the board. Passing this examination qualifies the examinee for licensure as a professional land surveyor, provided he has met the other requirements for licensure required by this chapter.

(3) A candidate failing all or part of an professional engineering or professional land surveying examination for the first time may apply for re-examination, which may be granted upon payment of an application fee equal to the application fee for the required examination plus a separate examination

fee paid by the applicant directly to the entity designated by the board. In the event of a second failure, the examinee shall be required to obtain a minimum of one (1) additional year of experience, acceptable to the board, from the date of the second examination failure, and submit evidence of having completed an additional eight (8) semester credits of college level academic education relating to the examination, before the board will consider that he has acquired the necessary additional knowledge to warrant assignment to a third examination. The separate application and examination fees shall be as set forth herein. In the event of a third or subsequent failure, the examinee shall be required to obtain a minimum of three (3) additional years of experience, acceptable to the board, from the date of the third or subsequent examination failure, and submit evidence of having completed an additional twelve (12) semester credits of college level academic education relating to the examination, before the board will consider that he has acquired the necessary additional knowledge to warrant assignment to a subsequent examination. The separate application and examination fees shall be as set forth herein.

(4) The board may prepare and adopt specifications for the written examinations in engineering and land surveying.

SECTION 5. That Section 54-1234, Idaho Code, be, and the same is hereby amended to read as follows:

54-1234. MONUMENTATION -- PENALTY AND LIABILITY FOR DEFACING. If any person shall willfully deface, injure or remove any signal, monument or other object set as a permanent boundary survey marker, benchmark or point set in control surveys by agencies of the United States government or the state of Idaho or set by a professional land surveyor or an agent of the United States government or the state of Idaho, he shall forfeit a sum not exceeding one thousand five hundred dollars (\$1,500) for each offense, and shall be liable for damages sustained by the affected parties in consequence of such defacing, injury or removal, to be recovered in a civil action in any court of competent jurisdiction.

SECTION 6. That Section 55-1905, Idaho Code, be, and the same is hereby amended to read as follows:

55-1905. RECORDS OF SURVEY -- FILING. The records of survey to be filed under authority of this chapter shall be processed as follows:

(1) ~~The record of survey shall be a map, prepared in black opaque image upon stable base drafting film with a minimum base thickness of .003 inches by either a photographic process using a silver image emulsion or by use of black opaque drafting film ink, by mechanical or handwritten means. The drafting film and image thereon shall be waterproof, tear resistant, flexible and capable of withstanding repeated handling, as well as providing archival permanence. If ink is used on drafting film, the ink surface shall be coated with a suitable substance to assure permanent legibility. The drafting film must be of a type which can be reproduced by either a photographic or diazo process using the same media and copy process as provided in section 50-1304, Idaho Code.~~ The map shall be eighteen (18) inches by twenty-seven (27) inches in size, with a three and one-half (3 1/2) inch margin at the left end for binding, and a one-half (1/2) inch margin on all other edges. No part of the drawing or certificates shall encroach upon the margins. Signatures shall be in reproducible black ink. The sheet or sheets which contain the drawing or diagram representing the survey shall be drawn at a scale suitable to ~~insure~~ ensure the clarity of all lines, bearings and dimensions. In the event that any survey is of such magnitude that the drawing or diagram cannot be placed on a single sheet, serially numbered

sheets shall be prepared and match lines shall be indicated on the drawing or diagram with appropriate references to other sheets.

(2) The original transparency and one (1) legible print of each record of survey shall be furnished to the county recorder in the county or counties in which the survey is to be recorded.

SECTION 7. That Section 55-1906, Idaho Code, be, and the same is hereby amended to read as follows:

55-1906. RECORDS OF SURVEY -- CONTENTS. The records of survey shall show:

(1) All monuments found or set or reset or replaced, or removed, describing their kind, size, location using bearings and distances, and giving other data relating thereto;

(2) Evidence of compliance with chapter 16, title 55, Idaho Code, including instrument numbers of any the most current corner records which have been recorded previously related to the survey being submitted and instrument numbers of corner records of any corners which are set in conjunction with the survey being submitted; basis of bearings, bearing and length of lines, graphic scale of map, and north arrow;

(3) Section, or part of section, township and range in which the survey is located and reference to surveys of record within or crossing or adjoining the survey;

(4) Certificate of survey;

(5) Ties to at least two (2) public land survey corner monuments of record in one (1) or more of the sections containing the record of survey, or in lieu of public land survey corners, to two (2) corners of records recognized by the county surveyor. Records of survey which are within previously platted subdivisions of record need not be tied to public land survey corner monuments.

Approved March 16, 2015

CHAPTER 49  
(S.B. No. 1081)

AN ACT

RELATING TO SELF-FUNDED HEALTH CARE PLANS; AMENDING SECTION 41-4002, IDAHO CODE, TO DEFINE A TERM AND TO REVISE DEFINITIONS; AMENDING SECTION 41-4010, IDAHO CODE, TO PROVIDE RESERVES AND SURPLUS REQUIREMENTS OF PUBLIC POSTSECONDARY EDUCATIONAL INSTITUTIONS WITH A PUBLIC POSTSECONDARY EDUCATIONAL INSTITUTION PLAN.

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

SECTION 1. That Section 41-4002, Idaho Code, be, and the same is hereby amended to read as follows:

41-4002. DEFINITIONS. For the purposes of this chapter unless context otherwise requires:

(1) "Administrator" is a person, if other than the trustee, employed or contracted by the trustee to provide administrative services to a self-funded plan.

(2) "Beneficiary" is any individual entitled, under the self-funded plan, to payment by the trust fund of any part or all of the cost of any health care service rendered to such beneficiary.

(3) "Claims liability" is the total of all incurred and unpaid claims, including incurred but not reported claims, for allowable benefits under a

self-funded plan that are not reimbursed or reimbursable by stop-loss insurance provided by a carrier authorized to transact insurance in this state.

(4) "Contribution" is the amount paid or payable by the employer or employee, or a postsecondary educational institution or student, into the trust fund.

(5) "Department" is the Idaho department of insurance.

(6) "Director" is the director of the department of insurance.

(7) "Irrevocable trust agreement" is a trust agreement whereby under the terms thereof the plan sponsor cannot retain the power to alter, amend, revoke or terminate the transfer of funds or property held in trust.

(8) "Multiple employer welfare arrangement" or "multiple employer welfare plan" shall have the same meaning as that given to the term "multiple employer welfare arrangement" by the employee retirement income security act of 1974, as amended.

(9) "Person" is any individual, corporation, limited liability company, partnership, association, firm, syndicate, organization, educational institution or any other public or private entity organized or recognized under the laws of the state of Idaho.

(10) "Plan sponsor" is any person who creates a self-funded health benefit plan for the benefit of any employer and employee or employees, or a postsecondary educational institution and student or students.

(11) "Postsecondary educational institution" is a person whose primary purpose is to provide a postsecondary education that offers or awards educational degrees and that provides courses or programs that lead to an educational degree, that is legally authorized and maintains a presence in the state of Idaho, and that has an average annualized enrollment of eight hundred (800) or more full-time students located in Idaho.

(12) "Public postsecondary educational institution" means Boise State University, Idaho State University, Lewis-Clark State College and the University of Idaho, along with the board of regents and board of trustees thereof.

(13) "Qualified actuary" is an actuary having experience in establishing rates for a self-funded plan and the health services being provided, and who is also a fellow of the society of actuaries, a member of the American academy of actuaries or an enrolled actuary under the employee retirement income security act of 1974, as amended.

(134) "Self-funded plan" or "plan" is any single employer plan, public postsecondary educational institution plan, or multiple employer welfare plan, or any other single or multiple employer plan, or any postsecondary educational institution student health benefit plan, other than a plan providing only benefits under title 72, Idaho Code, under which payment for medical, surgical, hospital, and other services for prevention, diagnosis, or treatment of any disease, injury, or bodily condition of an employee is, or is to be, regularly provided for or promised from funds created or maintained in whole or in part by contributions or payments thereto by the employer or employers, or by the employer or employers and the employees, or by a postsecondary educational institution and students at said institution, or students of a postsecondary educational institution, who are not otherwise covered by insurance or contract with a health care service corporation or managed care organization authorized to transact business in this state.

(145) "Single employer" is any individual, sole proprietorship, business, partnership, corporation, limited liability company, firm or any other form of legally recognized entity or a group of two (2) or more employers under "common control" as defined in section 3(40)(B)(iii) of the employee retirement income security act of 1974, as amended.

(156) "Student" is an individual enrolled in a postsecondary educational institution.

(167) "Surplus" is the excess of the assets of a self-funded plan minus the liabilities of the plan, provided the liabilities of a self-funded plan shall include the claims liability of the plan.

(178) "Trust fund" is a trust fund established in conjunction with a self-funded plan for receipt of contributions of employer and employees, postsecondary educational institution and students, and payment of or with respect to health care service costs of beneficiaries.

(189) "Trustee" is the trustee, whether a single or multiple trustee, of the trust fund.

SECTION 2. That Section 41-4010, Idaho Code, be, and the same is hereby amended to read as follows:

41-4010. RESERVES AND SURPLUS. (1) The trustee of a self-funded plan shall establish and maintain in the trust fund the following reserves:

(a) A reserve in an amount as certified by a qualified actuary as being necessary for payment of claims liability. The reserve shall be reasonably adjusted on a quarterly basis in an amount as determined by a qualified actuary or other qualified person if authorized by the director.

(b) If, under the plan, periodic contributions to the trust fund have been paid in advance or are payable less frequently than monthly, there shall be a reserve for unearned contributions as computed pro rata on the basis of the unexpired portion of the period for which the contribution has been paid.

(c) If future claims payments plus future costs of operation are greater than future contributions plus current reserves, there shall be a reserve in an amount equal to future claims payments plus future costs of operation, less future contributions, less current reserves.

(2) In any determination of the financial condition of the trust fund, the claims reserve, reserve for unearned contributions and contribution deficiency reserve shall constitute liabilities.

(3) In addition to reserves required by this section, a self-funded plan shall establish and maintain in its trust fund surplus equal to at least:

(a) The equivalence of three (3) months of contributions for the current plan year; or

(b) One hundred ten percent (110%) of the difference between the total dollar aggregate stop-loss attachment point plus costs of operation and the total dollar expected contributions for the current plan year.

(c) Paragraphs (a) and (b) of this subsection notwithstanding, a public postsecondary educational institution shall instead be required to establish and maintain in its trust fund surplus an amount equal to at least thirty percent (30%) of the unpaid claims liability of the plan.

(4) A surplus note that has been approved by the director in a form and as defined in section 41-2841, Idaho Code, may be used to fund surplus and shall not be accounted as a liability.

(5) Up to one-third (1/3) of the surplus required by this section may be funded by a clean, irrevocable letter of credit, in a form acceptable to the director, issued in favor of the trust fund by a federally or state chartered bank having a branch office in Idaho. Such irrevocable letter of credit cannot be guaranteed by pledge of any of the plan assets. The funding cannot be in the form of prepaid contributions or other loan or associated with an off-setting liability.

(6) A newly formed plan with no prior operating history shall meet the minimum surplus requirements no later than twelve (12) months after the date of initial operation. For plans registered with the department and in existence on the effective date of this law, such plans shall have twenty-four (24) months from the effective date of this law in which to increase their surplus level to comply with the requirements of subsection (3) of this section.

(7) The trust fund shall maintain the minimum surplus requirements at all times throughout the year.

Approved March 16, 2015

CHAPTER 50  
(H.B. No. 68)

AN ACT

RELATING TO PRINTING; AMENDING SECTION 60-103, IDAHO CODE, TO INCLUDE COUNTIES IN THE EXISTING EXEMPTIONS FOR PRINTING, ENGRAVING, BINDING OR STATIONERY WORK; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 60-103, Idaho Code, be, and the same is hereby amended to read as follows:

60-103. EXCEPTION IN CASE OF EXCESSIVE CHARGE -- EXCEPTIONS FOR LACK OF PRODUCTION FACILITIES ON BIDS ON STATE OR COUNTY WORK. (a) Whenever it shall be established that any charge for printing, engraving, binding (excluding binding for state supported libraries) or stationery work is in excess of the charge usually made to private individuals for the same kind and quality of work, then the state or county officer or officers having such work in charge shall have power to have such work done outside of said county or state, but nothing in this chapter shall be construed to oblige any of said officers to accept any unsatisfactory work.

(b) Any work referred to in section 60-101 or 60-102, Idaho Code, and which is to be executed for or on behalf of the state or a county may be executed outside of this state in any case (1) where the execution of such work shall require the use of a technique or process which cannot be performed through the use of physical production facilities located within this state and the use of such technique or process is essential to a necessary function to be served by the printing, binding, engraving or stationery work required; (2) where, after requests for proposals or bids have been made or notice thereof has been given as required by section 67-5718, Idaho Code, as amended, no bid or proposal is made thereon by any person, firm or corporation proposing to execute such work within this state, or (3) where, after requests for proposals or bids have been made or notice thereof given as required by section 67-5718, Idaho Code, the lowest bid from a person, firm or corporation proposing to execute such work within this state is more than ten percent (10%) more than the lowest bid from a person, firm or corporation proposing to execute such work outside this state.

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 17, 2015

CHAPTER 51  
(S.B. No. 1006)

AN ACT

RELATING TO IDAHO REAL ESTATE LICENSE LAW; AMENDING SECTION 54-2002, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-2004, IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-2018, IDAHO CODE, TO REMOVE REFERENCES TO A CHALLENGE EXAM AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-2027, IDAHO CODE, TO REVISE REQUIREMENTS OF IDAHO CERTIFIED COURSE PROVIDERS RELATING TO COURSE COMPLETION LISTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-2030, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE EXPIRATION OR WITHDRAWAL OF PROVIDER CERTIFICATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-2032, IDAHO CODE, TO REQUIRE PRIOR APPROVAL OR CERTIFICATION FOR INDIVIDUALS WISHING TO TEACH REAL ESTATE FOR CREDIT TOWARD POST LICENSE; AMENDING SECTION 54-2033, IDAHO CODE, TO PROVIDE INSTRUCTOR QUALIFICATIONS FOR INDIVIDUALS WISHING TO TEACH ANY REAL ESTATE COURSES FOR CREDIT TOWARD THE POST LICENSE; AMENDING SECTION 54-2036, IDAHO CODE, TO REVISE A PROVISION RELATING TO DISTANCE LEARNING COURSES, TO REMOVE PROVISIONS RELATING TO SUBSTITUTING CONTINUING EDUCATION COURSEWORK AND TO REMOVE PROVISIONS RELATING TO RETAKING A CHALLENGE EXAM; AMENDING SECTION 54-2039, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE BROKER AND BRANCH MANAGER ABSENCES AND CHANGES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-2051, IDAHO CODE, TO PROVIDE AN ADDITIONAL REQUIREMENT FOR WRITTEN OFFERS TO PURCHASE REAL PROPERTY OR ANY INTEREST THEREIN; AND AMENDING SECTION 54-2056, IDAHO CODE, TO REMOVE PROVISIONS RELATING TO TERMINATING RELATIONSHIPS BETWEEN A BROKER AND A SOLE PROPRIETORSHIP OWNED BY A PERSON OTHER THAN THE BROKER.

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

SECTION 1. That Section 54-2002, Idaho Code, be, and the same is hereby amended to read as follows:

54-2002. LICENSURE REQUIRED. No person shall engage in the business or act in the capacity of real estate broker or real estate salesperson in this state without an active Idaho real estate license ~~therefore~~ therefor. Unless exempted from this chapter, any single act described within the definitions of "real estate broker" or "real estate salesperson" shall be sufficient to constitute "engaging in the business" within the meaning of this chapter. Any person who engages in the business or acts in the capacity of real estate broker or salesperson in this state, with or without an Idaho real estate license, has thereby submitted to the jurisdiction of the state of Idaho and to the administrative jurisdiction of the Idaho real estate commission, and shall be subject to all penalties and remedies available under Idaho law for any violation of this chapter.

SECTION 2. That Section 54-2004, Idaho Code, be, and the same is hereby amended to read as follows:

54-2004. DEFINITIONS. As used in this chapter:

(1) "Accredited college or university" means an institution accredited by the regional accrediting associations, as reported in the most current publication of the accredited institutions of postsecondary education.

(2) "Acting in this state" means and includes dealing with any interest in real property, or a business opportunity involving an interest in real property, that is situated in the state of Idaho, or conducting or attempt-

ing to conduct or solicit real estate business with residents of the state of Idaho.

(3) "Active license" means the status of a real estate license that has not been inactivated, expired, terminated, suspended or revoked.

(4) "Associate broker" means an individual who has qualified personally as a real estate broker in Idaho under this chapter, but is licensed under, associated with and represents a designated broker in the performance of any act described in subsection (36) of this section.

(5) "Branch office" means an office operated by a licensed real estate broker or licensed legal business entity, separate and apart from the main office. A branch office may be licensed or unlicensed, in accordance with this chapter.

(6) "Broker price opinion" means a written price opinion of the estimated price for identified real property prepared or rendered by an actively licensed broker or associate broker, for a purpose other than a prospective listing or sale, and that complies or purports to comply with the requirements and content provision of section 54-4105, Idaho Code.

(7) "Brokerage company" means a real estate business, whether a sole proprietorship, a legal entity, or any other licensed person engaged in acts requiring a real estate license in Idaho, and ~~which~~ that is conducting or holding itself out as conducting the business of real estate through a designated broker.

(8) "Brokerage representation agreement" means a written contract between a buyer, seller, or both, and a real estate brokerage for agency representation in a regulated real estate transaction.

(9) "Business conduct and office operations course" means the component of the advanced real estate course that is required in order to obtain a broker license and that teaches business practices and office operations of the brokerage, including recordkeeping, trust account procedures and the laws governing those practices.

(10) "Business day" means and includes each day of the week except Saturday, Sunday or any other legal holiday enumerated in section 73-108, Idaho Code.

(11) "Business name" means the name in which the brokerage company is licensed by the commission.

(12) "Business opportunity" means and includes an established business, good will of an established business, or any interest therein, or any one (1) or combination thereof, where a sale or transfer of an interest in land including, but not limited to, an assignment of a lease, is involved in the transaction.

(13) "Commission" means the Idaho real estate commission, unless the context clearly indicates a different meaning.

(14) "Commission core course" means the annual course covering the twelve (12) month period between July 1 and June 30, which contains curriculum identified by the commission that stresses that year's trends in real estate practices and changes in laws in real estate related industries. A core course must contain no more than four (4) classroom hours of instruction.

(15) "Continuing education elective course" means a real estate course offering, other than the commission core course for which continuing education credit hours may be obtained as provided in section 54-2023, Idaho Code.

(16) "Convicted" means a plea of nolo contendere or guilty, a jury verdict of guilty or a court decision of guilt whether or not a judgment or sentence has been imposed, withheld or suspended.

(17) "Cooperative sale" means a transaction involving two (2) or more brokers.

(18) "Council" means the Idaho real estate education council.

(19) "Dealer in options" means any person, firm, partnership, association or corporation who shall directly or indirectly take, obtain or use



options to purchase, exchange, lease option or lease purchase real property or any interest therein for another or others whether or not the options shall be in his or its name and whether or not title to the property shall pass through the name of the person, firm, partnership, association or corporation in connection with the purchase, sale, exchange, lease option or lease purchase of the real property, or interest therein.

(20) "Designated broker" means an individual who is licensed as a real estate broker in Idaho and who is designated by the brokerage company to be responsible for the supervision of the brokerage company and the activities of any associated licensees in accordance with this chapter.

(21) "Distance learning course" means, in relation to a real estate course offering, a real estate course that is delivered, not as a live course, but through a medium in which the instructor and student are separated by both distance and time.

(22) "Double contract" means two (2) or more written or unwritten contracts of sale, purchase and sale agreements, loan applications, or any other agreements, one (1) of which is not made known to the prospective loan underwriter or the loan guarantor, to enable the buyer to obtain a larger loan than the true sales price would allow, or to enable the buyer to qualify for a loan which he or she otherwise could not obtain. An agreement or loan application is not made known unless it is disclosed in writing to the prospective loan underwriter or loan guarantor.

(23) "Executive director" means the executive director of the Idaho real estate commission.

(24) "Expired license" means the status of a license when the license period has expired and the license is not renewed or provisional license granted, and before the license is terminated.

(25) "Fee or commission" means a payment, actual, promised or expected, as compensation for the performance of any act requiring a real estate license.

(26) "Inactive license" means the status of a license that is not expired, terminated, suspended or revoked, and during which inactive period the license holder is not authorized to act as or associate with a designated broker.

(27) "Legal business entity" means and includes any type of corporation, partnership, limited liability company or limited liability partnership, a governmental entity, trust or other entity capable of conducting business.

(28) "Licensee" means any person who is licensed in accordance with this chapter to engage in the business or act in the capacity of real estate broker, associate broker or real estate salesperson.

(29) "Limited broker" means a broker individually qualified to do business in Idaho, but who may not have associate brokers or salespersons licensed with that broker.

(30) "Live presentation" means, in reference to a real estate course offering, a real estate course that is personally presented by the instructor and personally attended by the student at the same facility, or, if separated by distance, the instructor and student are connected by contemporaneous, two-way audio and visual communication.

(31) "Main office" means the principal location where the real estate broker is licensed to transact business.

(32) "Person" means and includes an individual, or any legal business entity.

(33) "Post license course" means a commission-approved or certified elective course that is specifically oriented toward salespersons in their first two (2) years of Idaho practice. The course must contain no more than twelve (12) classroom hours of instruction.

(34) "Primary Idaho license" means an Idaho real estate license that is not contingent upon continuance of a license in another state or jurisdiction.

(35) "Provisional license" means an extension of the period of active licensure, beyond the licensee's expiration date, granted by the commission for the purpose of allowing the licensee to complete the continuing education requirements set forth in section 54-2023, Idaho Code, or for any other purpose allowed by this chapter.

(36) "Real estate broker" means and includes:

(a) Any person other than a real estate salesperson, who, directly or indirectly, while acting for another, for compensation or a promise or an expectation thereof, engages in any of the following: sells, lists, buys, or negotiates, or offers to sell, list, buy or negotiate the purchase, sale, option or exchange of real estate or any interest therein or business opportunity or interest therein for others;

(b) Any actively licensed broker while, directly or indirectly, acting on the broker's own behalf;

(c) Any person who represents to the public that the person is engaged in any of the above activities;

(d) Any person who directly or indirectly engages in, directs, or takes any part in the procuring of prospects, or in the negotiating or closing of any transaction which does or is calculated to result in any of the acts above set forth;

(e) A dealer in options as defined in this section.

(37) "Real estate salesperson" or "salesperson" means any person who has qualified and is licensed as a real estate salesperson in Idaho under this chapter, and is licensed under, associated with, and represents a designated broker in the performance of any act described in subsection (36) of this section.

(38) "Real estate settlement procedures act" means the real estate settlement procedures act of 1974, as amended, 12 U.S.C. section 2601 et seq., and as in effect on January 1, 2008.

(389) "Regular employee" means an individual who performs a service for wages or other compensation and whose employer withholds federal employment taxes under a contract of hire, written or oral, express or implied.

(3940) "Regulated real estate transaction" means those real estate transactions for which a real estate license is required under chapter 20, title 54, Idaho Code.

(401) "Responsible broker" means the designated broker in the regulated real estate transaction who is responsible for the accounting and transaction files for the transaction, in the manner described in section 54-2048, Idaho Code.

(412) "Revoked license" means a license that has been permanently revoked by the issuing authority.

(423) "Sales associate" means a salesperson or an associate broker licensed under and associated with a designated broker.

(434) "State or jurisdiction" means and includes any state or territory of the United States, the District of Columbia and any foreign country jurisdiction that issues real estate licenses substantially similar to those provided for in this chapter.

(445) "Successfully completed" means, in reference to a real estate course offering, completing all required course hours and, except where the licensee seeks continuing education credit for having regularly attended the live presentation of a course, passing a commission-approved assessment or final examination.

(456) "Surrendered license" means a license that has been voluntarily terminated or surrendered by a licensee who, at the time of the voluntary termination or surrender, was under investigation or named in a formal administrative complaint.

(467) "Suspended license" means a license that has been temporarily suspended by the issuing authority.

SECTION 3. That Section 54-2018, Idaho Code, be, and the same is hereby amended to read as follows:

54-2018. LICENSE RENEWALS -- INACTIVE LICENSE STATUS -- PERSONAL CHANGES -- EFFECTIVE DATES -- FEES NONREFUNDABLE. (1) Initial license period. Each new license shall be for a period of one (1) year plus the months up to and including the next birth date of the licensee, not to exceed a period of two (2) years, and shall expire on the last day of the month of the birth date of the licensee. A salesperson licensed in this state who applies for and obtains a broker license shall retain the license renewal period and expiration date of his salesperson license. Corporations, partnerships, limited liability companies and other entities defined as "persons" in this chapter shall have established as the equivalent of a birth date, the birth date of its designated broker. Licensed branch offices shall have established as the equivalent of a birth date, the birth date of the designated broker for the branch office.

(2) License renewal. Each license shall be renewable for a period of two (2) years by timely submitting a completed application. Applications must be received at the commission office on or before 5 p.m., mountain time, of the expiration date.

(a) If renewing an active license, the application shall include:

(i) Certification that the applicant has met the commission's continuing education requirements as set forth in section 54-2023, Idaho Code;

(ii) Certification that the applicant has met the mandatory errors and omissions insurance requirement for real estate licensees as set forth in section 54-2013, Idaho Code; and

(iii) Payment of all renewal fees established by this chapter or by the commission.

(b) If renewing an inactive license, the application shall include payment of all renewal fees established by this chapter or by the commission by rule.

(3) Late renewal. If the licensee fails to submit a completed application for renewal or pay the renewal fee on or before the expiration date, the commission may accept a later application or payment of the fee, subject to such conditions as the commission may require including, but not limited to, the assessment of a late fee; provided that between the license expiration date and the date of renewal of the license, the rights of the licensee under such license shall be expired, and during such period of expiration it shall be unlawful for any licensee to do or attempt to offer to do any of the acts of the kind and nature described in the definitions of real estate broker or real estate salesperson in section 54-2004, Idaho Code, in consideration of compensation of any kind or expectation thereof. An expired license that is not renewed within one (1) year of the expiration date shall be automatically terminated by the commission and may not be renewed.

(4) Active and inactive license status. A licensee who is a designated broker or associated with a designated broker shall hold an active license. A licensee who has paid all applicable fees, who is not associated with a designated broker and who holds a current license that is not revoked, suspended or terminated shall hold his license on inactive status. A licensee seeking to change from active license status to inactive license status shall have the broker submit a change of status application to the commission in the form and manner approved by the commission. During the period that his license is inactive, the licensee shall not engage in the business or act in the capacity of real estate broker, associate broker or salesperson. However, an inactive licensee may receive a referral fee for any referral made during

the period his license was active. A licensee may activate an inactive license by meeting each of the following:

- (a) If activating as a sales associate, associating with a designated Idaho broker and having the broker submit an application in the form and manner approved by the commission;
- (b) If activating as a designated broker, establishing an office in the manner required by this chapter and submitting an application in the form and manner approved by the commission;
- (c) Paying any required fees;
- (d) Obtaining and maintaining a policy of errors and omissions insurance as required by section 54-2013, Idaho Code, and in accordance with the rules of the commission and certifying the same; and
- (e) Successfully completing any continuing education requirements, as prescribed in section 54-2023, Idaho Code, and certifying the same for the current license period.

(5) Continuing education. A licensee shall not submit an application to renew a license on active status or to activate an inactive license without having obtained the continuing education credit hours required by section 54-2023, Idaho Code. A licensee who violates this subsection (5) shall be subject to disciplinary action by the commission.

(6) Time required. The commission may request satisfactory proof of continuing education compliance from any licensee who has certified to the commission that he has completed the requirement. The request shall state the time within which the proof must be received at the commission office, which time shall not be less than ten (10) business days.

(7) Satisfactory proof. Upon request from the commission, the licensee shall submit satisfactory proof of having met the continuing education requirement set forth in section 54-2023, Idaho Code. "Satisfactory proof" shall, for each course, consist of documentation:

- (a) Identifying the licensee, the title of the course ~~or challenge exam~~, the course certification number, the course provider, the number of classroom hours, the completion date of the course ~~or challenge exam~~, and including:

- (i) A transcript of the course taken;
- (ii) A letter from the provider verifying successful completion of the course; or
- (iii) A course completion certificate; and

- (b) Identifying the course certification approval number to establish that the course is approved for continuing education credit as provided by section 54-2023, Idaho Code. The commission may, in its sole discretion, accept alternative documentation establishing that the course is approved for credit.

(8) Failure to submit proof. A licensee failing to submit satisfactory proof of completing the continuing education requirement after being requested to do so by the commission may have his license inactivated by the commission and shall not be entitled to reactivate the license unless and until he provides to the commission satisfactory proof that he meets the continuing education requirements of section 54-2023, Idaho Code. Nothing in this section shall limit the ability of the commission to investigate or discipline a licensee for violating subsection (5) of this section or for violating any other section of this chapter.

(9) Change in personal information. An individual licensee, whether active or inactive, shall provide written notice to the commission, in the form and manner approved by the commission, of any change of his personal name, address of personal residence or personal telephone number. Notice shall be provided within ten (10) business days of the change. If the licensee has changed his personal name, he shall also submit legal proof of the change and, if an active licensee, he shall have the broker submit the written notice of change to the commission.

(10) Issuance of the license and effective date. A real estate license shall be deemed issued, and any requested license changes shall become effective, when the completed application, attachments, and any required fees are received at and approved by the commission. An application that is incomplete or lacking the required fees shall be returned to the applicant and no license shall be issued until a completed application and all required fees are received at and actually approved by the commission. A brokerage is not required to obtain, display or possess a physical license certificate as evidence of the individual's active licensure; however, the commission may make license certificates available for a fee as authorized by this chapter. A brokerage shall not display or otherwise make available to the public a license certificate for any individual who does not hold an active license with the brokerage.

(11) Fees nonrefundable. No licensee shall be entitled to a refund of any fee after the license or license change has become effective.

SECTION 4. That Section 54-2027, Idaho Code, be, and the same is hereby amended to read as follows:

54-2027. DUTIES AND REQUIREMENTS OF ALL CERTIFIED COURSE PROVIDERS. Failure of a certified course provider to comply with the following duties and requirements shall be grounds for the commission to withdraw or cancel the provider's certification for cause.

(1) Discrimination prohibited. Each certified course provider shall at all times be in compliance with state and federal laws, rules and regulations regarding all aspects of equal opportunity and protection of civil rights. No course provider shall engage in discriminatory practices, nor allow their course instructor, or method of delivery to violate laws prohibiting discrimination. Each course provider will fully comply with any requirements of the Americans with disabilities act regarding access to and delivery of its courses, including the provision of accessible facilities and reasonable accommodations for students.

(2) Open access to course offerings. Registration and attendance at all certified courses offered for credit toward the education requirements of this chapter shall be open to all persons meeting normal course prerequisites; provided however, a certified course provider located in or affiliated with a licensed real estate brokerage company or professional association may refuse access to any licensee or unlicensed person based on that licensee's or unlicensed person's affiliation with another organization or brokerage company, or the licensee's or unlicensed person's membership status in any professional organization unless such course provider has received financial support from the commission for its particular course offering. Nothing in this section shall restrict a course provider from charging a separate and reasonable course fee to nonaffiliated or nonmember licensees or unlicensed persons.

(3) Disclosure of fees. All fees charged to a student by a course provider shall be specified separately in writing. If additional fees are charged for supplies, materials or books required for coursework, such fees shall be itemized by the provider and, upon payment of such fees, the supplies, materials or books shall become the property of the student. All fees and the manner in which they are to be paid shall be stated in a student contract, in a form approved by the commission. The student contract shall expressly include the provider's policy regarding the return of fees in the instance where the student is dismissed or voluntarily withdraws from the course.

(4) Facilities and supportive personnel. The provider shall provide the facilities and all supportive qualified personnel or approved proctors necessary to adequately implement its real estate program.

(5) Student records and other requirements. Each Idaho certified course provider shall comply with the following requirements:

(a) Records. For each individual student, create and retain for a period of five (5) years, a complete, accurate and detailed record which shall include the total number of hours of instruction undertaken and satisfactorily or unsatisfactorily completed in the area of study;

(b) Course completion lists. Within five (5) working business days after conclusion of each course of instruction, the provider shall submit to the council or commission, in the form and manner designated by the commission, a list which that shall include the legal names and social security numbers or, if licensed, the license numbers, of the students completing the course of instruction, the name of the course, the name of the instructor, the number of hours included in the course, the date of the course and the location. The list shall be certified by the instructor from whom the students received instruction and an authorized representative of the provider;

(c) Grades. The provider will provide written notification to students who successfully or unsuccessfully complete a course within thirty (30) days of the course completion date;

(d) Evaluations. Upon the conclusion of each course, the provider shall collect written evaluations from students for the course and instructor, using an evaluation form approved by the commission. The provider shall keep such evaluations for a period of one (1) year from the course completion date. Upon written request from the commission, the provider shall submit either the student evaluations for the course and instructor, or a written summary of those evaluations using a form approved by the commission; and

(e) Course schedules. Each provider shall submit schedules of courses and instructors as requested by the commission and submit changes promptly as they occur. Whenever there is a change in a course including, but not limited to, a change in curriculum, course length or instructor, the provider shall promptly notify the commission in writing of the change.

(6) Instructors. A certified provider may offer a continuing education elective course without obtaining approval or certification for the course instructor; provided however, the provider shall take reasonable steps to ensure that the instructor is competent to teach the course and shall maintain resumes or other biographical information that documents the qualifications of the instructor. The provider shall make such documentation available to the public and commission upon written request. A course provider shall not offer for credit any course that is being taught below the minimum teaching standards established by the commission or that is being taught in a manner that is detrimental to the purpose of educating licensees.

(7) Posting and recording fees. The commission may require that course providers pay to the commission a nonrefundable posting and recording fee to defray normal expenses incurred in maintaining the certificate program. The fee amount shall be established by the commission by motion.

(8) Advertising restrictions:

(a) Providers may advertise that they are currently certified by the commission, if current certification has been approved, but no such advertising may state or imply that the provider is an agency of the commission or the council;

(b) No course provider shall provide any information to the public or to prospective students which is misleading in nature. Information is misleading when, taken as a whole, there is distinct probability that it will deceive the persons whom it is intended to influence.

(9) Changes in certification. Certification shall be granted to the particular provider for the specific ownership, provider location, and named individual in charge as designated in the application for certifi-

cation. Any changes in ownership, provider location, or provider name, or named individual in charge must be submitted for approval to the commission, at least one (1) month in advance of the effective date of the proposed changes.

SECTION 5. That Section 54-2030, Idaho Code, be, and the same is hereby amended to read as follows:

54-2030. EXPIRATION OR WITHDRAWAL OF PROVIDER CERTIFICATION -- NOTICE TO STUDENTS. If a provider's certification expires, is terminated or is withdrawn for any reason, the provider will no longer be approved by the commission, and no credit will be given to students for any courses starting after not yet successfully completed by the expiration date. A provider whose certification has expired, been terminated or withdrawn for any reason, shall immediately notify every present or future student in writing that it is not a certified provider of approved real estate courses in Idaho, and that no credit for prelicense or continuing education will be given for its courses.

SECTION 6. That Section 54-2032, Idaho Code, be, and the same is hereby amended to read as follows:

54-2032. CERTIFICATION OF INSTRUCTORS. All individuals wishing to teach real estate courses for credit toward prelicense, post license or the commission continuing education core course requirements in Idaho must first be approved or certified by the commission for each course the individual wishes to teach.

SECTION 7. That Section 54-2033, Idaho Code, be, and the same is hereby amended to read as follows:

54-2033. INSTRUCTOR QUALIFICATIONS. (1) Qualified instructors at degree-granting institutions. A qualified or full-time instructor or professor of an accredited college or university in any state or jurisdiction and who teaches real estate-related courses is deemed to be an approved instructor of such courses, in Idaho, for the purposes of this chapter.

(2) Other instructor applicants. All other individuals wishing to teach any real estate courses for credit toward Idaho prelicense requirements, including the business conduct and office operations course, or the post license or the commission continuing education core course requirements, must first meet the following additional qualifications and receive separate certification for each course to be taught:

(a) Unless this requirement is waived upon special review of the commission in the manner stated below, no individual instructor seeking certification may have had a real estate or other professional or occupational license suspended or revoked for disciplinary reasons or have been refused a renewal of a license issued by the state of Idaho or any other state or jurisdiction. Further, the individual may not have been convicted, issued any fine, placed on probation, received a withheld judgment, or completed any sentence of confinement for or on account of any felony, or any misdemeanor involving fraud, misrepresentation, or dishonest or dishonorable dealing, in a court of proper jurisdiction. The failure of a certified instructor to maintain the qualifications required by this subsection shall be grounds for the commission to withdraw or cancel the instructor's certificate as provided in section 54-2025(3), Idaho Code.

(b) Each applicant for certification shall also:

(i) Submit a completed application for instructor certification in the form and manner required by the commission, with all required fees;

(ii) File an executed "irrevocable consent to service of process" in the manner and form prescribed by the commission and according to section 54-2012(1)(k), Idaho Code;

(iii) Qualify as at least one (1) of the following:

1. An attorney at law actively licensed in any state or jurisdiction with at least five (5) years of active practice in the areas of study proposed to be taught, and who has also successfully completed a commission-approved instructor training course or procedure, including an assistant teaching period;

2. An individual currently approved or certified and in good standing as a real estate instructor for the same or similar course material in any other state or jurisdiction;

3. An individual who is appointed to teach a nationally recognized real estate course which is generally accepted in other states or jurisdictions; or

4. An individual with at least five (5) years active real estate-related experience who has also successfully completed a commission-approved instructor training procedure, including an assistant teaching period.

(3) Instructor teaching standards. An instructor certified to teach any real estate course for credit toward the requirements of this chapter shall comply with the minimum teaching standards established by the commission. A certified instructor shall not teach the course in a manner that is detrimental to the purpose of educating licensees.

SECTION 8. That Section 54-2036, Idaho Code, be, and the same is hereby amended to read as follows:

54-2036. CERTIFICATION OF COURSES AND COURSE CONTENT. Every real estate course offered for prelicense or continuing education credit for an Idaho real estate license shall first be certified and accredited by the Idaho real estate commission.

(1) An application for course certification must be submitted in the form and manner required by the commission, with the required fees, at least two (2) months prior to the contemplated date of the first course offering.

(2) Minimum requirements for course certification:

(a) Each course must be certified individually, offered only through a provider certified or approved in Idaho, and taught by an instructor certified or approved in Idaho in accordance with this chapter.

(b) Each prelicense course must contain at least twenty (20) classroom hours, and each continuing education course must contain at least two (2) classroom hours.

(c) Exam time shall not be included as approved classroom hours of instruction.

(d) A classroom hour is defined as a period of at least fifty (50) minutes of actual instruction.

(e) Distance learning courses. The design and delivery of each distance learning course shall be certified by the association of real estate license law officials or by another institution whose certification standards are deemed equivalent by the commission. The credit hours for a certified distance learning course shall be based upon the same number of hours which would be credited for an equivalent live course, and must include a commission-approved final exam assessment.



(f) Each prelicense course must include a commission-approved final exam requiring a minimum passing score of seventy percent (70%).

(g) Continuing education course exam.

~~(i) A licensee may receive continuing education course credit without having to take or pass an exam if the licensee personally attends the entire live presentation of an approved course.~~

~~(ii) The commission may substitute all or a portion of the continuing education coursework required when a licensee shows evidence of passing a commission-approved challenge exam.~~

(h) Exam retake policy. Each certified course provider may, at its option, allow students who complete a course and then fail the course exam one (1) opportunity to retake the approved course exam within the following time periods:

(i) Prelicense course exam retakes must occur within one (1) month of the original course exam;

(ii) Continuing education course exam retakes must occur within that course's certification period;

(iii) If a student fails the retake exam for any prelicense or continuing education course, the student must repeat the entire course and pass the final exam to receive credit;

~~(iv) A course provider shall not permit a student who takes and fails a challenge exam to retake the exam. A student who fails a challenge exam must take the entire course and pass the final exam to receive credit for the course.~~

(i) Challenge exams. Except where the prelicense requirements have been waived or modified by the commission pursuant to section 54-2022(6), Idaho Code, a student shall not earn credit for any prelicense course by challenging and passing the course exam without otherwise completing all course requirements.

(3) Approved topics. The commission shall establish specific, approved topics for course content for prelicense courses and continuing education courses as it deems appropriate to current real estate practices and laws.

SECTION 9. That Section 54-2039, Idaho Code, be, and the same is hereby amended to read as follows:

54-2039. **BROKER AND BRANCH OFFICE MANAGER ABSENCES AND CHANGES.** Each real estate brokerage company must have a legally qualified individual acting as designated broker at all times. Each branch office licensed under section 54-2016(4), Idaho Code, shall have, at all times, a legally qualified individual acting as branch office manager.

(1) Broker or branch manager absent for more than twenty-one (21) days. A designated broker who is absent from his main office for more than twenty-one (21) consecutive days shall appoint a qualified designated broker of another office, or an associate broker who is licensed and associated with the absent broker, to manage, supervise and oversee the regular office operations of the company in his absence. A branch office manager who is absent for more than twenty-one (21) consecutive days from a branch office in which trust funds and original transaction files are maintained shall appoint a qualified individual to manage, supervise and oversee the regular office operations of the company in his absence. The appointee shall conduct all supervisory activities normally required of the designated broker or branch manager. Except in the event of an emergency, the designated broker or branch manager shall notify the commission in writing of the name of the appointee prior to the broker or manager leaving the office for an extended period of more than twenty-one (21) consecutive days.

(2) Broker or branch manager absent for more than sixty (60) days. A designated broker, or manager of a branch office in which trust funds and

original transaction files are maintained, shall not be absent from his main office for a period longer than sixty (60) consecutive days. In the case of such extended absence, another qualified individual shall be designated to act as broker or branch ~~office~~ manager. If a designated broker or branch manager is absent from his main office for a period longer than sixty (60) consecutive days, and no new broker or branch manager is designated appointed to act as broker ~~for the brokerage company~~ or branch manager, the commission shall place on inactive status the licenses of the absent broker or branch manager and of all licensees associated with him, and in the case of a brokerage company, all brokerage listing agreements and all buyer brokerage agreements shall be terminated.

(3) Change of broker in business entity. A license issued to a legal business entity, as defined in this chapter, is effective only as long as the individual designated broker's license is in active status and in effect. If the individual so designated has a license refused, revoked, suspended or otherwise made inactive by the commission, or if the individual designated broker voluntarily surrenders the individual license or ceases to be connected with the entity in the manner required in this chapter, the business entity shall have ten (10) business days in which to designate another qualified individual as designated broker before the entity's license is terminated, and the licenses of all associated licensees are made inactive.

(4) Effective date of changes. No change in designated broker shall be effective until written notice is received and approved by the commission, in the form required.

(5) Failure to comply -- Original broker to remain responsible except in the case of revocation. Where a licensed brokerage company fails to comply with this section and its office is closed, or during any period where the designated broker has left the brokerage company and no new broker has been designated to act for the company, the original designated broker shall remain responsible for trust account funds, pending transactions and records in the manner described in sections 54-2041 through 54-2049, Idaho Code. However, if the license of the original designated broker of the brokerage company is revoked, the license of that brokerage company shall be made inactive and its office closed until the company designates another qualified individual to act as broker.

SECTION 10. That Section 54-2051, Idaho Code, be, and the same is hereby amended to read as follows:

54-2051. OFFERS TO PURCHASE. (1) A broker or sales associate shall, as promptly as practicable, tender to the seller every written offer to purchase obtained on the real estate involved, up until time of closing. A purchase and sale agreement signed by the prospective buyer shall be deemed in all respects an offer to purchase.

(2) Immediately upon receiving any offer to purchase signed and dated by the buyer and any consideration, a broker or salesperson shall provide a copy of the offer to purchase to the buyer as a receipt.

(3) Upon obtaining a properly signed and dated acceptance of an offer to purchase, the broker or sales associate shall promptly deliver true and legible copies of such accepted offer to both the buyer and the seller.

(4) The broker or sales associate shall make certain that all offers to purchase real property or any interest therein are in writing and contain all of the following specific terms, provisions and statements:

(a) All terms and conditions of the real estate transaction as directed by the buyer or seller;

(b) The actual form and amount of the consideration received as earnest money;

(c) The name of the responsible broker in the transaction, as defined in section 54-2048, Idaho Code;

- (d) The "representation confirmation" statement required in section 54-2085(4), Idaho Code, and, only if applicable to the transaction, the "consent to limited dual representation" as required in section 54-2088, Idaho Code;
  - (e) A provision for division of earnest money retained by any person as forfeited payment should the transaction not close;
  - (f) All appropriate signatures and the dates of such signatures; and
  - (g) A legal description of the property.
- (5) All changes made to any offer to purchase or other real estate purchase agreement shall be initialed and dated by the parties to the transaction.

SECTION 11. That Section 54-2056, Idaho Code, be, and the same is hereby amended to read as follows:

54-2056. TERMINATING OR CHANGING LICENSED BUSINESS RELATIONSHIPS. (1) Termination of licensed association. A sales associate who terminates his licensed association with a broker shall provide the broker written notice of the termination no later than three (3) business days after the effective date. A broker who terminates the licensed association of a sales associate shall provide the associate written notice of the termination no later than three (3) business days after the effective date. A licensee's written notice to the commission does not relieve him of the duty to provide written notice to the other licensee that he is terminating the licensed association.

(2) New association. The broker shall submit a written application, in the form and manner approved by the commission, for each sales associate licensing with the broker.

(3) Termination for cause. Any broker who terminates the association of a sales associate for the violation of any of the provisions of sections 54-2059 through 54-2065, Idaho Code, shall, within ten (10) business days of the termination, notify the commission, in writing, of the termination and the facts giving rise to the termination.

(4) Closing a branch office. Immediately upon closing a branch office, the broker shall provide the commission written notice of the closure advising of the new status of all licensees licensed with the closed branch. The broker shall remove from public view any license certificates for the branch office.

(5) Property of the broker. Upon termination of the business relationship as a sales associate licensed under a broker, the sales associate shall immediately turn over to the broker all listing information and listing contracts, keys, purchase and sale agreements and similar contracts, buyer brokerage information and contracts, and other property belonging to the broker. A sales associate shall not engage in any practice or conduct, directly or indirectly, which encourages, entices or induces clients of the broker to terminate any legal business relationship with the broker unless he first obtains written permission of the broker.

(6) Location of trust accounts and file records. When an actively licensed broker changes to a license status other than that of a designated broker, that individual must notify the commission in writing of the location of all trust accounts and transaction file records which the broker was responsible for during the term of licensure as a designated broker. These records shall be available to the commission for three (3) years following the year in which each transaction was closed.

~~(7) Terminating relationships between a broker and a sole proprietorship owned by a person other than the broker. When a broker for a sole proprietorship, owned by a person other than the broker, terminates an association with the owner, all records and trust account funds shall become the property of, and be maintained and disbursed by, the terminating broker in~~

~~accordance with this chapter and applicable rules promulgated thereunder. The terminating broker shall deliver, upon request made in writing by the clients and the new broker of that sole proprietorship, such records and trust account funds pertaining to that client, to the new broker who shall thereafter have the responsibility for preservation and disbursement, in accordance with this chapter and applicable rules promulgated thereunder.~~

Approved March 17, 2015

CHAPTER 52  
(S.B. No. 1009)

AN ACT

RELATING TO IDAHO REAL ESTATE LICENSE LAW; AMENDING SECTION 54-2028, IDAHO CODE, TO REVISE THE TERM OF A COURSE PROVIDER'S CERTIFICATION AND TO PROVIDE AN EXPIRATION DATE; AND AMENDING SECTION 54-2035, IDAHO CODE, TO REVISE THE TERM OF AN INSTRUCTOR CERTIFICATION AND TO PROVIDE AN EXPIRATION DATE.

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

SECTION 1. That Section 54-2028, Idaho Code, be, and the same is hereby amended to read as follows:

54-2028. TERM OF PROVIDER CERTIFICATION AND RENEWAL. (1) Each course provider's certification issued by the commission shall be for a term of ~~two (2)~~ up to one (1) years and shall expire annually on June 30. ~~The exact expiration date will be shown on the provider certificate.~~

(2) In order to maintain certification, each provider shall:

(a) Return a properly completed renewal application on a form provided by the commission, along with all necessary attachments and renewal fees to the commission office prior to the expiration date for commission approval; and

(b) Certify that its designated director or person in charge has, within the past two (2) years, attended a commission-approved provider training.

(3) Recertification is not effective until the commission has formally approved the application for renewal.

(4) Failure to obtain approved renewal of certification prior to its expiration date will result in no credit being given for courses not yet successfully completed by the expiration date.

SECTION 2. That Section 54-2035, Idaho Code, be, and the same is hereby amended to read as follows:

54-2035. TERM OF INSTRUCTOR CERTIFICATION AND RENEWAL. (1) Certification. Each instructor certification issued by the commission shall be for a term of ~~two (2)~~ up to one (1) years and shall expire annually on June 30. ~~The exact expiration date will be shown on the instructor certificate.~~

(2) Recertification.

(a) In order to be recertified, each instructor shall:

(i) Return a completed recertification application on a form provided by the commission, along with all necessary attachments and fees, to the commission office prior to the expiration date for commission approval;

(ii) Demonstrate the ability to adequately teach the course. The ability to adequately teach shall be determined by the commission based upon any or all of the following:

1. Evaluations received from students;
  2. Direct observation of the instructor's teaching performance by a commission representative; or
  3. Review of the outline and reference materials provided for the course; and
- (iii) Have attended a commission-sponsored instructor development seminar or received other acceptable training in methods of teaching adults during the preceding two (2) years.
- (b) Recertification shall not be effective until the commission formally approves the application for renewal. An instructor's failure to obtain approved recertification prior to the expiration of the certification will result in no credit being given for any course taught by the instructor whose certification has expired prior to conclusion of the course.

Approved March 17, 2015

CHAPTER 53  
(S.B. No. 1015, As Amended)

AN ACT

RELATING TO MOTOR VEHICLE DEALERS; AMENDING SECTION 49-1608, IDAHO CODE, TO REMOVE BOND PROVISIONS RELATING TO CERTAIN DEALERS, TO REQUIRE THE PROCUREMENT AND FILING OF A SPECIFIED BOND BY WHOLESALE DEALERS, TO PROVIDE AN EXEMPTION FROM PARTICIPATION IN THE IDAHO CONSUMER ASSET RECOVERY FUND BY CERTAIN WHOLESALE DEALER LICENSEES AND TO SPECIFY BOND REQUIREMENTS FOR ALL OTHER DEALERS.

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

SECTION 1. That Section 49-1608, Idaho Code, be, and the same is hereby amended to read as follows:

49-1608. LICENSE BOND. (1) Before any dealer's license shall be issued by the department to any applicant, the applicant shall procure and file with the department good and sufficient bond in the amount shown, conditioned that the applicant shall not practice any fraud, make any fraudulent representation or violate any of the provisions of this chapter, rules of the department, or the provisions of chapter 5, title 49, section 49-1418, or chapter 6, title 48, Idaho Code, or federal motor vehicle safety standards, or odometer fraud in the conduct of the business for which he is licensed.

(a) ~~All dealers, including wholesale, but excluding a dealer exclusively in the business of motorcycles, motor-driven cycles and motorbikes, all-terrain vehicles, utility type vehicles, truck campers and snow machine sales, twenty thousand dollars (\$20,000).~~

~~(b) A dealer exclusively in the business of motorcycle, motor-driven cycle and motorbike sales, all-terrain vehicles, utility type vehicles, truck campers and snow machine sales, ten thousand dollars (\$10,000).~~

(b) Any wholesale dealer in the business of wholesaling used vehicles of all types, forty thousand dollars (\$40,000). Such wholesale dealer licensees shall be exempt from participating in the Idaho consumer asset recovery fund as provided in sections 49-1608B through 49-1608F, Idaho Code.

(c) All other dealers, twenty thousand dollars (\$20,000).

(2) The bond required in this section may be continuous in form and the total aggregate liability on the bond shall be limited to the payment of the amounts set forth in this section. The bond shall be in the following form:

(a) A corporate surety bond, by a surety licensed to do business in this state; or

(b) A certificate of deposit, in a form prescribed by the director; or

(c) A cash deposit with the director.

(3) If a bond is canceled or otherwise becomes invalid, upon receiving notice of the cancellation or invalidity, the department shall immediately suspend the dealer's license and take possession of the license itself, all vehicle plates used in the business and all unused title applications of the licensee. The licensee is entitled to a hearing which shall be held within twenty (20) days of the suspension. Upon receiving notice that a valid bond is in force, the department shall immediately reinstate the license.

(4) The bond requirements of this section shall be satisfied if the applicant is a duly licensed manufactured home dealer in accordance with chapter 21, title 44, Idaho Code, and the bond required by section 44-2103, Idaho Code, otherwise meets the requirements of this section. The amount of the bond shall be in the amount as required in this section or that required in section 44-2103, Idaho Code, whichever is greater. The applicant shall furnish a certified copy of the bond as required in section 44-2103, Idaho Code, to the department.

Approved March 17, 2015

CHAPTER 54  
(S.B. No. 1016)

AN ACT

RELATING TO DRIVER'S LICENSES AND PERMITS; AMENDING SECTION 49-104, IDAHO CODE, TO REVISE DEFINITIONS AND TO DEFINE TERMS; AMENDING SECTION 49-110, IDAHO CODE, TO REVISE DEFINITIONS, TO DEFINE TERMS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-115, IDAHO CODE, TO REVISE DEFINITIONS AND TO DEFINE TERMS; AMENDING SECTION 49-305, IDAHO CODE, TO PROVIDE FOR COMMERCIAL LEARNER'S PERMITS, TO PROVIDE FOR THE VALIDITY OF COMMERCIAL LEARNER'S PERMITS AND CLASS D INSTRUCTION PERMITS, TO PROVIDE FOR THE RENEWAL OF THOSE PERMITS WITHOUT RETAKING A TEST UNDER CERTAIN CONDITIONS AND TO PROVIDE FOR THE RENEWAL OF MOTORCYCLE ENDORSEMENT INSTRUCTION PERMITS WITHOUT RETAKING A TEST UNDER CERTAIN CONDITIONS; AMENDING SECTION 49-306, IDAHO CODE, TO PROVIDE AN APPLICATION FEE FOR COMMERCIAL LEARNER'S PERMITS, TO PROVIDE AN EXCEPTION ASSOCIATED WITH CERTAIN APPLICATION REQUIREMENTS FOR PROVIDING PROOF OF IDAHO RESIDENCY AND AN IDAHO MAILING ADDRESS, TO PROVIDE FOR COMMERCIAL LEARNER'S PERMITS, TO PROVIDE FOR PROOF OF UNITED STATES CITIZENSHIP OR LAWFUL PERMANENT RESIDENCY IN ASSOCIATION WITH CERTAIN APPLICATIONS, TO PROVIDE AN EXCEPTION, TO REQUIRE THAT CERTAIN APPLICANTS PROVIDE SPECIFIED UNEXPIRED EMPLOYMENT AUTHORIZATION DOCUMENTS OR UNEXPIRED FOREIGN PASSPORT ACCOMPANIED BY AN APPROVED I-94 FORM AND TO REVISE PROVISIONS RELATING TO THE DISTRIBUTION OF MONEYS RECEIVED FROM CERTAIN FEES; AND AMENDING SECTION 49-306, AS AMENDED BY SECTION 2, CHAPTER 354, LAWS OF 2013, TO PROVIDE AN APPLICATION FEE FOR COMMERCIAL LEARNER'S PERMITS, TO PROVIDE AN EXCEPTION ASSOCIATED WITH CERTAIN APPLICATION REQUIREMENTS FOR PROVIDING PROOF OF IDAHO RESIDENCY AND AN IDAHO MAILING ADDRESS, TO PROVIDE FOR COMMERCIAL LEARNER'S PERMITS, TO PROVIDE FOR PROOF OF UNITED STATES CITIZENSHIP OR LAWFUL PERMANENT RESIDENCY IN ASSOCIATION WITH CERTAIN APPLICATIONS, TO PROVIDE AN EXCEPTION, TO REQUIRE THAT CERTAIN APPLICANTS PROVIDE SPECIFIED UNEXPIRED EMPLOYMENT AUTHORIZATION DOCUMENTS OR UNEXPIRED FOREIGN PASSPORT ACCOMPANIED BY AN APPROVED I-94 FORM AND TO REVISE PROVISIONS RELATING

TO THE DISTRIBUTION OF MONEYS RECEIVED FROM CERTAIN FEES; AMENDING SECTION 49-313, IDAHO CODE, TO PROVIDE FOR THE EXAMINATION OF APPLICANTS FOR COMMERCIAL LEARNER'S PERMITS; AND AMENDING SECTION 6, CHAPTER 354, LAWS OF 2013, TO REVISE A CONTINGENT EFFECTIVE DATE.

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

SECTION 1. That Section 49-104, Idaho Code, be, and the same is hereby amended to read as follows:

49-104. DEFINITIONS -- C. (1) "Cancellation of driver's license" means the annulment or termination by formal action of the department of a person's driver's license because of some error or defect in the driver's license or because the licensee is no longer entitled to the driver's license. The cancellation of a driver's license is without prejudice and after compliance with requirements, the individual may apply for a new driver's license at any time after cancellation.

(2) "Caravanning" means the transportation of any motor vehicle into, out of, or within the state operating on its own wheels or in tow for the purpose of sale or offer of sale by any agent, dealer, manufacturer's representative, purchaser, or prospective purchaser, regardless of residence unless the motor vehicle is licensed by the state of Idaho, or is owned by an automobile dealer, duly licensed as a dealer by this state. It shall also be considered as the transportation of property for hire by a motor vehicle upon the highways of this state.

(3) "Certificate of liability insurance" means a certificate of liability insurance issued by an insurance company authorized to do business in this state or a certificate of liability insurance issued by the department of insurance which demonstrates current insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property suffered by any person caused by accident and arising out of the operation, maintenance or use of a motor vehicle described in the certificate in an amount not less than that required by section 49-117(18), Idaho Code, and also demonstrates the current existence of any other coverage required by title 41, Idaho Code, or a certificate of self-insurance issued pursuant to law for each motor vehicle to be registered. A certificate of liability insurance shall contain the information required by the department of insurance, including the name and address of the owner of the motor vehicle and a description of the motor vehicle including identification number if there is one, or a statement that all vehicles owned by a person or entity are covered by insurance, the inception date of coverage, and the name of the insurer. "Certificate of liability insurance" may also include the original contract of liability insurance or a true copy, demonstrating the current existence of the liability insurance described in this subsection.

(4) "Certification of safety compliance" means that a motor carrier certifies as part of its registration process that it has knowledge of the federal regulations and rules promulgated by the Idaho transportation department and the Idaho state police applicable to motor carriers.

(5) "Chains" means metal traction devices required pursuant to section 49-948, Idaho Code, which consist of two (2) circular metal loops, one (1) on each side of the tire, connected by not less than nine (9) evenly-spaced chains across the tire tread.

(6) "Coerce" means to compel or attempt to compel by threat or use of force.

(7) "Commercial coach." (See section 39-4301, Idaho Code)

(8) "Commercial driver's license" means any class A, class B or class C driver's license as defined in section 49-105, Idaho Code.

(9) "Commercial driver license information system (CDLIS)" is the information system established to serve as a clearinghouse for locating information related to the licensing and identification of motor vehicle drivers.

(10) "Commercial driver training school" means a business enterprise conducted by an individual, association, partnership, or corporation, for the education and training of persons, either practically or theoretically, or both, to operate or drive motor vehicles, and charging a consideration or tuition for such services.

(11) "Commercial learner's permit" means a permit issued to an individual by a state or other jurisdiction of domicile, in accordance with the standards contained in 49 CFR 383.5, that when carried with a valid driver's license issued by the same state or jurisdiction, authorizes the individual to operate a commercial vehicle when accompanied by a holder of a valid commercial driver's license (CDL) for purposes of behind-the-wheel training.

(12) "Commercial vehicle" or "commercial motor vehicle." (See "Vehicle," section 49-123, Idaho Code)

(123) "Compliance review" means an on-site examination of motor carrier operations, which may be at the carrier's place of business, including driver's hours of service, vehicle maintenance and inspection, driver qualifications, commercial driver's license requirements, financial responsibility, accidents, hazardous materials, and such other related safety and transportation records to determine safety fitness.

(134) "Controlled substance" means any substance so classified under section 102(6) of the controlled substances act, 21 U.S.C. 802(6), and includes all substances listed on schedules I through V, of 21, CFR part 1308, as they may be revised from time to time.

(145) "Conviction" means:

(a) The person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment. A conviction for purposes of this title shall also include an infraction judgment.

(b) For purposes of disqualification or withdrawal of commercial vehicle driving privileges only, "conviction" means an unvacated adjudication of guilt, or determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated.

(156) "Crosswalk" means:

(a) That part of a highway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or in the absence of curbs, from the edges of the traversable highway; and in the absence of a sidewalk on one side of the highway, that part of a highway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline.

(b) Any portion of a highway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

SECTION 2. That Section 49-110, Idaho Code, be, and the same is hereby amended to read as follows:

49-110. DEFINITIONS -- I. (1) "Identifying number" means:

(a) Motor number. That identifying number stamped on the engine of a vehicle.



(b) Vehicle identification number. The numbers and letters, if any, placed on a vehicle by the manufacturer for the purpose of identifying the vehicle.

(2) "Implements of husbandry" means every vehicle including self-propelled units, designed or adapted and used exclusively in agricultural, horticultural, dairy and livestock growing and feeding operations when being incidentally operated. Such implements include, but are not limited to, combines, discs, dry and liquid fertilizer spreaders, cargo tanks, harrows, hay balers, harvesting and stacking equipment, pesticide applicators, plows, swathers, mint tubs and mint wagons, and farm wagons. A farm tractor when attached to or drawing any implement of husbandry shall be construed to be an implement of husbandry. "Implements of husbandry" do not include semitrailers, nor do they include motor vehicles or trailers, unless their design limits their use to agricultural, horticultural, dairy or livestock growing and feeding operations.

(3) "Incidentally operated" means the transport of the implement of husbandry from one (1) farm operation to another.

(4) "Individual record" means a record containing personal information about a designated person who is the subject of the record as identified in a request for information.

(5) "Infraction" means a civil public offense, not constituting a crime, which is not punishable by incarceration and for which there is no right to a trial by jury or right to court-appointed counsel, and which is punishable by only a penalty not exceeding three hundred dollars (\$300) and no imprisonment.

(6) "Instruction permits":

(a) ~~"Class A, B or C instruction permit." means a temporary privilege to operate a motor vehicle for which a commercial driver's license is required; is available only to a person who is eighteen (18) years of age or older; is issued pursuant to the provisions of section 49-305, Idaho Code; and the permittee is subject to the conditions specified therein. (See "Commercial learner's permit," section 49-104, Idaho Code)~~

(b) "Class D driver's training instruction permit" means a temporary privilege to operate a class D motor vehicle while attending classes as an enrollee of a public or private driver's training course only; is available to a person aged fourteen and one-half (14 1/2) years and older; is issued to the instructor of the driver's training course; is issued and expires pursuant to the provisions of section 49-307, Idaho Code; and the permittee is subject to the conditions specified in section 49-307, Idaho Code.

(c) "Class D instruction permit" means a temporary privilege to operate a class D motor vehicle which is available to a person under the age of seventeen (17) years who has successfully completed an approved driver's training course and has satisfied the requirements of a class D supervised instruction permit, or to any person seventeen (17) years of age or older; is valid for a period of one hundred eighty (180) days or as provided in section 49-305, Idaho Code, if applicable; privileges are limited to driving with a person who is at least eighteen (18) years of age who holds a valid class D driver's license and is actually occupying a seat beside the permittee; is issued pursuant to the provisions of section 49-305, Idaho Code; and the permittee is subject to the conditions specified in section 49-305, Idaho Code.

(d) "Class D supervised instruction permit" means a temporary privilege to operate a class D motor vehicle which is available to a person who is at least fourteen and one-half (14 1/2) years of age who has successfully completed an approved driver's training course. No person may apply for a class D driver's license until he has attained the age of at least fifteen (15) years and has successfully satisfied the

requirements of this permit, as specified and issued pursuant to the provisions of section 49-307, Idaho Code.

(7) "Instructor" means any person, whether acting for himself as operator of a commercial driver training school or for such a school for compensation, who teaches, conducts classes of, gives demonstrations to, or supervises practice of, persons learning to operate or drive motor vehicles.

(8) "Insurer" means any insurer, public or private, which shall include, but not be limited to, insurance companies domiciled in the state of Idaho, agents, adjuster or any other person acting on behalf of any insurance not domiciled in the state of Idaho and any self-insured entity operating under Idaho insurance laws or rules.

(9) "International registration plan" means a registration reciprocity agreement among the states of the United States and provinces of Canada providing for payment of registration and licensing fees on a proportional basis determined by the fleet miles operated in the various jurisdictions.

(10) "Intersection" means:

(a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(b) Where a highway includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of the divided highway by an intersecting highway shall be regarded as a separate intersection. In the event an intersecting highway also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of the highways shall be regarded as a separate intersection.

(c) The junction of an alley with a street or highway shall not constitute an intersection.

SECTION 3. That Section 49-115, Idaho Code, be, and the same is hereby amended to read as follows:

49-115. DEFINITIONS -- N. (1) "National network" means highways available to vehicles authorized by the provisions of the federal surface transportation assistance act of 1982 as amended, and listed in 23 CFR part 658, appendix A.

(2) "Neighborhood electric vehicle." (See "Vehicle," section 49-123, Idaho Code)

(3) "Noncommercial vehicle." (See "Vehicle," section 49-123, Idaho Code)

(4) "Nondomiciled commercial learner's permit" or "nondomiciled commercial driver's license" means a commercial learner's permit or a commercial driver's license, respectively, issued by a state or other jurisdiction under either of the following conditions:

(a) To an individual domiciled in a foreign country meeting the requirements of 49 CFR 383.23(b) (1); or

(b) To an individual domiciled in another state meeting the requirements of 49 CFR 383.23(b) (2) .

(5) "Nonresident" means every person who is not a resident of this state.

(56) "Nonresident's operating privilege" means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by that person of a motor vehicle, or the use of a vehicle owned by that person, in this state.

SECTION 4. That Section 49-305, Idaho Code, be, and the same is hereby amended to read as follows:

49-305. INSTRUCTION PERMITS -- COMMERCIAL LEARNER'S PERMIT -- TEMPORARY LICENSES -- MOTORCYCLE ENDORSEMENT INSTRUCTION PERMIT. (1) Upon passage of the required knowledge tests appropriate for the vehicle being operated, the department may issue a ~~class A, B or C instruction~~ commercial learner's permit for the type of vehicle(s) the person will be operating, or a class D instruction permit for a class D motor vehicle, entitling the applicant, while having the permit in his immediate possession, to drive a motor vehicle upon the highways for a period of up to one hundred eighty (180) days or as provided in paragraph (b) of this subsection (1) for certain class D instruction permits. That person must be accompanied by an adult driver eighteen (18) years of age or older who holds a valid driver's license appropriate for the vehicle being operated and who is actually occupying a seat beside the driver. Unless otherwise provided, a commercial learner's permit or class D instruction permit will be valid for one hundred eighty (180) days and may be renewed one (1) time without requiring the permit holder to retake and pass the required knowledge tests for that class of permit, provided the knowledge tests are less than one (1) year old.

(a) Any person under the age of seventeen (17) years who has successfully completed an approved driver's training course and has satisfied the requirements of a class D supervised instruction permit, or any person who has reached the age of seventeen (17) years may apply for a class D instruction permit. Any person applying for any class D instruction permit or driving privileges who is under the age of eighteen (18) years shall be in compliance with school attendance requirements of section 49-303A, Idaho Code.

(b) If a person reaches the age of seventeen (17) years while operating a class D vehicle with a class D supervised instruction permit, and such class D supervised instruction permit becomes a class D instruction permit as provided in section 49-307, Idaho Code, then such class D instruction permit shall expire five (5) days after the permittee's eighteenth birthday.

(c) Any person who has reached the age of eighteen (18) years, holds a valid Idaho class D driver's license and has at least one (1) year of driving experience, may apply for a ~~class A, B or C instruction~~ commercial learner's permit.

(d) The department shall not issue a hazardous material endorsement on any ~~instruction commercial learner's permit.~~

(2) The department may, at its discretion, issue a temporary class D driver's license to an applicant for a class D driver's license permitting him to operate a motor vehicle while the department is completing its investigation and determination of all facts relative to the applicant's right to receive a driver's license. The temporary license may be canceled at the department's discretion at any time after issuance. The temporary license must be in the applicant's immediate possession while operating a motor vehicle, and it shall be invalid when the applicant's driver's license has been issued or for good cause has been refused.

(3) A certified copy of an applicant's birth certificate shall be required before a class D driver's license or class D instruction permit will be issued.

(4) The department may issue a motorcycle endorsement instruction permit to an applicant who has a valid driver's license and who has successfully completed the motorcycle rider's knowledge test and paid the appropriate fees. The permit entitles the applicant, while having the permit in his immediate possession, to operate a motorcycle upon the highways for a period not to exceed one hundred eighty (180) days. The motorcycle endorsement instruction permit may be renewed one (1) time without the requirement

to retake and pass the motorcycle rider's knowledge test if the test is less than one (1) year old. If the permittee passes the skills test for a motorcycle endorsement within one hundred eighty (180) days of issuance of the motorcycle endorsement instruction permit, he shall not be required to pay the motorcycle endorsement fee. A person holding a motorcycle instruction permit shall not carry any passenger while operating a motorcycle, shall not operate a motorcycle except during the hours of daylight only and shall not operate a motorcycle upon any interstate highway system.

A violation of the conditions of a motorcycle endorsement instruction permit is an infraction. The department shall cancel the permit whether or not such violation results in conviction of the infraction.

SECTION 5. That Section 49-306, Idaho Code, be, and the same is hereby amended to read as follows:

49-306. APPLICATION FOR DRIVER'S LICENSE, INSTRUCTION PERMIT, COMMERCIAL LEARNER'S PERMIT OR RESTRICTED SCHOOL ATTENDANCE DRIVING PERMIT. (1) Every application for any instruction permit, restricted school attendance driving permit, or for a driver's license shall be made upon a form furnished by the department and shall be verified by the applicant before a person authorized to administer oaths. Officers and employees of the department and sheriffs and their deputies are authorized to administer the oaths without charge. Every application for a permit, extension or driver's license shall be accompanied by the following fee, none of which is refundable:

(a) Class A, B, C (4-year) license with endorsements -- age 21 years and older .....	\$40.00
(b) Class A, B, C (3-year) license with endorsements -- age 18 to 21 years .....	\$30.00
(c) Class A, B, C (1-year) license with endorsements -- age 20 years .....	\$15.00
(d) Class D (3-year) license -- under age 18 years .....	\$25.00
(e) Class D (3-year) license -- age 18 to 21 years .....	\$25.00
(f) Class D (1-year) license -- age 17 years or age 20 years ....	\$15.00
(g) Four-year Class D license -- age 21 years and older .....	\$30.00
(h) Eight-year Class D license -- age 21 to 63 years .....	\$55.00
(i) <del>Class A, B, C instruction</del> Commercial learner's permit .....	\$29.00
(j) Class D instruction permit or supervised instruction permit .....	\$15.00
(k) Duplicate driver's license or permit issued under section 49-318, Idaho Code .....	\$15.00
(l) Driver's license extension issued under section 49-319, Idaho Code .....	\$10.00
(m) License classification change (upgrade) .....	\$25.00
(n) Endorsement addition .....	\$15.00
(o) Class A, B, C skills tests not more than .....	\$70.00
(p) Class D skills test .....	\$24.00
(q) Motorcycle endorsement skills test .....	\$10.00
(r) Knowledge test .....	\$ 3.00
(s) Seasonal driver's license .....	\$39.00
(t) One time motorcycle "M" endorsement .....	\$15.00
(u) Motorcycle endorsement instruction permit .....	\$15.00
(v) Restricted driving permit or restricted school attendance driving permit .....	\$60.00

(2) Every application shall state the true and full name, date of birth, sex, declaration of Idaho residency, Idaho residence address and mailing address, if different, of the applicant, height, weight, hair color, and eye color, and the applicant's social security number as verified by the social security administration. If an applicant has submitted an application pur-

suant to the provisions of chapter 58, title 19, Idaho Code, then the applicant may state, in his or her application pursuant to this section, the applicant's alternative Idaho mailing address in place of his or her Idaho residence address and mailing address. Notwithstanding the provisions of section 49-303(13), Idaho Code, an applicant for a nondomiciled class A, B or C driver's license or nondomiciled commercial learner's permit having residency in a state that is prohibited from issuing class A, B or C driver's licenses or commercial learner's permits, as provided in 49 CFR 384, is exempted from providing proof of Idaho residency and an Idaho mailing address.

(a) The requirement that an applicant provide a social security number as verified by the social security administration shall apply only to applicants who have been assigned a social security number.

(b) An applicant who has not been assigned a social security number shall:

(i) Present written verification from the social security administration that the applicant has not been assigned a social security number; and

(ii) Submit a birth certificate, passport or other documentary evidence issued by an entity other than a state or the United States; and

(iii) Submit such proof as the department may require that the applicant is lawfully present in the United States.

A driver's license, commercial learner's permit or any instruction permit issued on and after January 1, 1993, shall not contain an applicant's social security number. Applications on file shall be exempt from disclosure except as provided in sections 49-202, 49-203, 49-203A and 49-204, Idaho Code.

(c) Every application for a class A, B or C license shall state where the applicant has been licensed for the preceding ten (10) years and under which of the following driving categories the applicant will operate:

(i) Non-excepted Interstate. The applicant operates or expects to operate in interstate commerce, and is required to provide a medical examiner's certificate;

(ii) Excepted Interstate. The applicant operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted by the federal motor carrier safety administration from all or parts of the qualification requirements of federal motor carrier safety regulation 49, part 391, and is therefore not required to provide a medical examiner's certificate;

(iii) Non-excepted Intrastate. The applicant operates only in intrastate commerce and is subject to and meets all Idaho driver qualification requirements and the applicable parts of federal motor carrier safety regulation 49, part 391, and is required to provide a medical examiner's certificate; or

(iv) Excepted Intrastate. The applicant operates in intrastate commerce, but engages exclusively in exempted transportation or operations as listed in section 67-2901B(2), Idaho Code, and the applicable parts of federal motor carrier safety regulation 49, part 391, and is therefore not required to provide a medical examiner's certificate.

All applications shall also state whether the applicant has previously been licensed as a driver, and if so, when and by what state or country, and whether a driver's license or privileges have ever been suspended, revoked, denied, disqualified, canceled or whether an application has ever been refused, and if so, the date of and reason for the suspension, revocation, denial, disqualification, cancellation or refusal and the applicant's oath that all information is correct as signified by the applicant's signature.

(d) The applicant must submit proof of identity acceptable to the examiner or the department and date of birth as set forth in a certified copy of his birth certificate. When a certified copy of his birth certificate or a delayed birth certificate is impossible to obtain from a vital statistics agency, another government issued document may be submitted that provides satisfactory evidence of a person's full legal name and date of birth acceptable to the examiner or the department.

(e) Every applicant for a class A, B or C driver's license or commercial learner's permit shall provide proof of United States citizenship or lawful permanent residency in the United States upon application for issuance, transfer, upgrade or renewal, unless the applicant's driving record already contains documentation confirming United States citizenship or lawful permanent residency. Every applicant for a nondomiciled class A, B or C driver's license or commercial learner's permit domiciled in a foreign country must provide an unexpired employment authorization document issued by the department of homeland security or an unexpired foreign passport accompanied by an approved I-94 form documenting the applicant's most recent admittance into the United States.

(df) 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 a driver's license, commercial learner's permit or instruction permit. Any registration information so supplied shall be transmitted by the department to the selective service system.

(3) Whenever an application is received from a person previously licensed in another jurisdiction, the department shall request a copy of the driver's record from the other jurisdiction and shall contact the national driver register. When received, the driver's record from the previous jurisdiction shall become a part of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance.

(4) Whenever the department receives a request for a driver's record from another licensing jurisdiction, the record shall be forwarded without charge.

(5) The department shall contact and notify the commercial driver license information system of the proposed application for a class A, B or C driver's license or commercial learner's permit to ensure identification of the person and to obtain clearance to issue the license.

(6) When the fees required under this section are collected by a county officer, they shall be paid over to the county treasurer not less often than monthly, who shall immediately:

(a) Deposit an amount equal to five dollars (\$5.00) from each driver's license except an eight-year class D license, or any class D instruction permit application fees, application for a duplicate driver's license or permit, classification change, seasonal driver's license and additional endorsement, and ten dollars (\$10.00) from each eight-year class D driver's license, in the current expense fund; and

(b) Deposit two dollars and fifty cents (\$2.50) from each motorcycle endorsement and motorcycle endorsement instruction permit fee in the current expense fund; and

(c) Deposit an amount equal to three dollars (\$3.00) from each fee for a knowledge test in the current expense fund; and

(d) Deposit an amount equal to ten dollars (\$10.00) from each fee for a motorcycle endorsement skills test in the current expense fund; provided however, if a contractor administers the skills test he shall be entitled to the ten dollar (\$10.00) fee; and

(e) Remit the remainder to the state treasurer; and

(f) Deposit seventeen dollars and fifty cents (\$17.50) from each fee for a class D skills test into the county current expense fund, unless the test is administered by a department-approved contractor, in which case the contractor shall be entitled to seventeen dollars and fifty cents (\$17.50) of each fee.

(7) When the fees required under this section are collected by a state officer or agency, they shall be paid over to the state treasurer.

(8) The state treasurer shall distribute the moneys received from fees imposed by the provisions of this section, whether collected by a county officer or by a state officer or agency as follows:

(a) Two dollars (\$2.00) of each fee for a four-year driver's license or seasonal driver's license, and four dollars (\$4.00) of each fee for an eight-year class D driver's license, and one dollar and fifty cents (\$1.50) of each fee charged for driver's licenses pursuant to subsections (1) (b), (d) and (e) of this section, and fifty cents (50¢) of each fee charged for driver's licenses pursuant to subsections (1) (c) and (f) of this section, shall be deposited in the emergency medical services fund II created in section 56-1018A, Idaho Code, and four dollars (\$4.00) of each fee charged pursuant to subsections (1) (a), (g) and (s) of this section and eight dollars (\$8.00) of each fee charged pursuant to subsection (1) (h) of this section and three dollars (\$3.00) of each fee for driver's licenses pursuant to subsections (1) (b), (d) and (e) of this section, and one dollar (\$1.00) of each fee charged for driver's licenses pursuant to subsections (1) (c) and (f) of this section shall be deposited in the emergency medical services fund III created in section 56-1018B, Idaho Code; and

(b) Twenty-eight dollars (\$28.00) of each fee for a seasonal or class A, B or C driver's license, and nineteen dollars and fifty cents (\$19.50) of each fee charged for a license pursuant to subsection (1) (b) of this section, and eight dollars and sixteen cents (\$8.16) of each fee charged for a license pursuant to subsection (1) (c) of this section shall be deposited in the state highway account; and

(c) Twenty dollars (\$20.00) of each fee for a class A, B or C instruction commercial learner's permit or driver's license classification change shall be deposited in the state highway account; and

(d) Four dollars (\$4.00) of each fee for a class A, B or C instruction commercial learner's permit shall be deposited in the emergency medical services fund III created in section 56-1018B, Idaho Code; and

(e) Ten dollars (\$10.00) of each fee for a duplicate seasonal or class A, B or C driver's license, class A, B or C driver's license extension, or additional endorsement shall be deposited in the state highway account; and

(f) Seven dollars and fifty cents (\$7.50) of each fee for a motorcycle endorsement and motorcycle endorsement instruction permit shall be deposited in the state highway account; and

(g) Five dollars and thirty cents (\$5.30) of each fee for a four-year class D driver's license, and ten dollars and sixty cents (\$10.60) of each fee for an eight-year class D driver's license, and four dollars (\$4.00) of each fee charged for a license pursuant to subsections (1) (d) and (e) of this section, and one dollar and thirty-three cents (\$1.33) of each fee charged for a license pursuant to subsection (1) (f) of this section shall be deposited in the driver training fund; and

(h) Twelve dollars and seventy cents (\$12.70) of each fee for a four-year class D driver's license, and twenty dollars and forty cents (\$20.40) of each fee for an eight-year class D driver's license, and ten dollars and fifty cents (\$10.50) of each fee charged for a license pursuant to subsections (1) (d) and (e) of this section, and six dollars and eighty-three cents (\$6.83) of each fee charged for a license pursuant

to subsection (1) (f) of this section shall be deposited in the highway distribution fund; and

(i) Two dollars and sixty cents (\$2.60) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the driver training fund; and

(j) Seven dollars and forty cents (\$7.40) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the highway distribution fund; and

(k) Ten dollars (\$10.00) of each fee for a class A, B or C skills test shall be deposited in the state highway account; and

(l) One dollar (\$1.00) of each fee for a class A, B, C or four-year D driver's license, and two dollars (\$2.00) of each fee for an eight-year class D driver's license, and one dollar (\$1.00) of each fee charged for a license pursuant to subsections (1) (b), (d) and (e) of this section, and thirty-four cents (34¢) of each fee charged for a license pursuant to subsections (1) (c) and (f) of this section shall be deposited in the motorcycle safety program fund established in section 33-4904, Idaho Code; and

(m) Six dollars and fifty cents (\$6.50) of each fee for a class D skills test shall be deposited into the state highway account.

(9) The contractor administering a class A, B or C skills test shall be entitled to not more than sixty dollars (\$60.00) of the skills test fee. A contractor administering a class A, B or C skills test may collect an additional fee for the use of the contractor's vehicle for the skills test.

(10) Sixty dollars (\$60.00) of each restricted driving permit and each restricted school attendance driving permit shall be deposited in the state highway account.

(11) The department may issue seasonal class B or C driver's licenses to drivers who are employees of agri-chemical businesses, custom harvesters, farm retail outlets and suppliers, and livestock feeders that:

(a) Will only be valid for driving commercial vehicles that normally require class B or C commercial driver's licenses;

(b) Will be valid for seasonal periods that begin on the date of issuance and that are not to exceed one hundred eighty (180) days in a twelve (12) month period;

(c) May only be obtained twice in a driver's lifetime;

(d) Are valid only within a one hundred fifty (150) mile radius of the place of business or farm being serviced; and

(e) Will be valid only in conjunction with valid Idaho class D driver's licenses.

(12) The department may issue seasonal class B or C driver's licenses to drivers who:

(a) Have not violated the single license provisions of applicable federal regulations;

(b) Have not had any license suspensions, revocations or cancellations;

(c) Have not had any convictions in any vehicle for any offense listed in section 49-335(1) or (2), Idaho Code, or any one (1) serious traffic offense;

(d) Have at least one (1) year of driving experience with a class D or equivalent license in any type motor vehicle; and

(e) Are at least sixteen (16) years old.

SECTION 6. That Section 49-306, Idaho Code, as amended by Section 2, Chapter 354, Laws of 2013, be, and the same is hereby amended to read as follows:



49-306. APPLICATION FOR DRIVER'S LICENSE, INSTRUCTION PERMIT, COMMERCIAL LEARNER'S PERMIT OR RESTRICTED SCHOOL ATTENDANCE DRIVING PERMIT. (1) Every application for any instruction permit, restricted school attendance driving permit, or for a driver's license shall be made upon a form furnished by the department and shall be verified by the applicant before a person authorized to administer oaths. Officers and employees of the department and sheriffs and their deputies are authorized to administer the oaths without charge. Every application for a permit, extension or driver's license shall be accompanied by the following fee, none of which is refundable:

(a) Class A, B, C (4-year) license with endorsements -- age 21 years and older .....	\$40.00
(b) Class A, B, C (3-year) license with endorsements -- age 18 to 21 years .....	\$30.00
(c) Class A, B, C (1-year) license with endorsements -- age 20 years .....	\$15.00
(d) Class D (3-year) license -- under age 18 years .....	\$25.00
(e) Class D (3-year) license -- age 18 to 21 years .....	\$25.00
(f) Class D (1-year) license -- age 17 years or age 20 years ....	\$15.00
(g) Four-year Class D license -- age 21 years and older .....	\$30.00
(h) Eight-year Class D license -- age 21 to 63 years .....	\$55.00
(i) <del>Class A, B, C instruction</del> Commercial learner's permit .....	\$29.00
(j) Class D instruction permit or supervised instruction permit .....	\$15.00
(k) Duplicate driver's license or permit issued under section 49-318, Idaho Code .....	\$15.00
(l) Driver's license extension issued under section 49-319, Idaho Code .....	\$10.00
(m) License classification change (upgrade) .....	\$25.00
(n) Endorsement addition .....	\$15.00
(o) Class A, B, C skills tests not more than .....	\$70.00
(p) Class D skills test .....	\$24.00
(q) Motorcycle endorsement skills test .....	\$10.00
(r) Knowledge test .....	\$ 3.00
(s) Seasonal driver's license .....	\$39.00
(t) One time motorcycle "M" endorsement .....	\$15.00
(u) Motorcycle endorsement instruction permit .....	\$15.00
(v) Restricted driving permit or restricted school attendance driving permit .....	\$60.00

(2) A person who applies for a driver's license or a driver's license renewal may designate a voluntary contribution of two dollars (\$2.00) for the purpose of promoting and supporting organ donation. Such a contribution shall be treated as a voluntary contribution to the organ donation contribution fund created in section 49-2447, Idaho Code, and not as a driver's license fee.

(3) Every application shall state the true and full name, date of birth, sex, declaration of Idaho residency, Idaho residence address and mailing address, if different, of the applicant, height, weight, hair color, and eye color, and the applicant's social security number as verified by the social security administration. If an applicant has submitted an application pursuant to the provisions of chapter 58, title 19, Idaho Code, then the applicant may state, in his or her application pursuant to this section, the applicant's alternative Idaho mailing address in place of his or her Idaho residence address and mailing address. Notwithstanding the provisions of section 49-303(13), Idaho Code, an applicant for a nondomiciled class A, B or C driver's license or nondomiciled commercial learner's permit having residency in a state that is prohibited from issuing class A, B or C driver's licenses or commercial learner's permits, as provided in 49 CFR 384, is exempted from providing proof of Idaho residency and an Idaho mailing address.

(a) The requirement that an applicant provide a social security number as verified by the social security administration shall apply only to applicants who have been assigned a social security number.

(b) An applicant who has not been assigned a social security number shall:

(i) Present written verification from the social security administration that the applicant has not been assigned a social security number; and

(ii) Submit a birth certificate, passport or other documentary evidence issued by an entity other than a state or the United States; and

(iii) Submit such proof as the department may require that the applicant is lawfully present in the United States.

A driver's license, commercial learner's permit or any instruction permit issued on and after January 1, 1993, shall not contain an applicant's social security number. Applications on file shall be exempt from disclosure except as provided in sections 49-202, 49-203, 49-203A and 49-204, Idaho Code.

(c) Every application for a class A, B or C license shall state where the applicant has been licensed for the preceding ten (10) years and under which of the following driving categories the applicant will operate:

(i) Non-excepted interstate. The applicant operates or expects to operate in interstate commerce, and is required to provide a medical examiner's certificate;

(ii) Excepted interstate. The applicant operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted by the federal motor carrier safety administration from all or parts of the qualification requirements of federal motor carrier safety regulation 49, part 391, and is therefore not required to provide a medical examiner's certificate;

(iii) Non-excepted intrastate. The applicant operates only in intrastate commerce and is subject to and meets all Idaho driver qualification requirements and the applicable parts of federal motor carrier safety regulation 49, part 391, and is required to provide a medical examiner's certificate; or

(iv) Excepted intrastate. The applicant operates in intrastate commerce, but engages exclusively in exempted transportation or operations as listed in section 67-2901B(2), Idaho Code, and the applicable parts of federal motor carrier safety regulation 49, part 391, and is therefore not required to provide a medical examiner's certificate.

All applications shall also state whether the applicant has previously been licensed as a driver, and if so, when and by what state or country, and whether a driver's license or privileges have ever been suspended, revoked, denied, disqualified, canceled or whether an application has ever been refused, and if so, the date of and reason for the suspension, revocation, denial, disqualification, cancellation or refusal and the applicant's oath that all information is correct as signified by the applicant's signature.

(d) The applicant must submit proof of identity acceptable to the examiner or the department and date of birth as set forth in a certified copy of his birth certificate. When a certified copy of his birth certificate or a delayed birth certificate is impossible to obtain from a vital statistics agency, another government issued document may be submitted that provides satisfactory evidence of a person's full legal name and date of birth acceptable to the examiner or the department.

(e) Every applicant for a class A, B or C driver's license or commercial learner's permit shall provide proof of United States citizenship

or lawful permanent residency in the United States upon application for issuance, transfer, upgrade or renewal, unless the applicant's driving record already contains documentation confirming United States citizenship or lawful permanent residency. Every applicant for a nondomiciled class A, B or C driver's license or commercial learner's permit domiciled in a foreign country must provide an unexpired employment authorization document issued by the department of homeland security or an unexpired foreign passport accompanied by an approved I-94 form documenting the applicant's most recent admittance into the United States.

(df) 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 a driver's license, commercial learner's permit or instruction permit. Any registration information so supplied shall be transmitted by the department to the selective service system.

(4) Whenever an application is received from a person previously licensed in another jurisdiction, the department shall request a copy of the driver's record from the other jurisdiction and shall contact the national driver register. When received, the driver's record from the previous jurisdiction shall become a part of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance.

(5) Whenever the department receives a request for a driver's record from another licensing jurisdiction, the record shall be forwarded without charge.

(6) The department shall contact and notify the commercial driver license information system of the proposed application for a class A, B or C driver's license or commercial learner's permit to ensure identification of the person and to obtain clearance to issue the license.

(7) When the fees required under this section are collected by a county officer, they shall be paid over to the county treasurer not less often than monthly, who shall immediately:

(a) Deposit an amount equal to five dollars (\$5.00) from each driver's license except an eight-year class D license, or any class D instruction permit application fees, application for a duplicate driver's license or permit, classification change, seasonal driver's license and additional endorsement, and ten dollars (\$10.00) from each eight-year class D driver's license, in the current expense fund;

(b) Deposit two dollars and fifty cents (\$2.50) from each motorcycle endorsement and motorcycle endorsement instruction permit fee in the current expense fund;

(c) Deposit an amount equal to three dollars (\$3.00) from each fee for a knowledge test in the current expense fund;

(d) Deposit an amount equal to ten dollars (\$10.00) from each fee for a motorcycle endorsement skills test in the current expense fund; provided however, if a contractor administers the skills test he shall be entitled to the ten dollar (\$10.00) fee;

(e) Remit the remainder to the state treasurer; and

(f) Deposit seventeen dollars and fifty cents (\$17.50) from each fee for a class D skills test into the county current expense fund, unless the test is administered by a department-approved contractor, in which case the contractor shall be entitled to seventeen dollars and fifty cents (\$17.50) of each fee.

(8) When the fees required under this section are collected by a state officer or agency, they shall be paid over to the state treasurer.

(9) The state treasurer shall distribute the moneys received from fees imposed by the provisions of this section, whether collected by a county officer or by a state officer or agency as follows:

(a) Two dollars (\$2.00) of each fee for a four-year driver's license or seasonal driver's license, and four dollars (\$4.00) of each fee for an eight-year class D driver's license, and one dollar and fifty cents (\$1.50) of each fee charged for driver's licenses pursuant to subsection (1) (b), (d) and (e) of this section, and fifty cents (50¢) of each fee charged for driver's licenses pursuant to subsection (1) (c) and (f) of this section, shall be deposited in the emergency medical services fund II created in section 56-1018A, Idaho Code, and four dollars (\$4.00) of each fee charged pursuant to subsection (1) (a), (g) and (s) of this section and eight dollars (\$8.00) of each fee charged pursuant to subsection (1) (h) of this section and three dollars (\$3.00) of each fee for driver's licenses pursuant to subsection (1) (b), (d) and (e) of this section, and one dollar (\$1.00) of each fee charged for driver's licenses pursuant to subsection (1) (c) and (f) of this section shall be deposited in the emergency medical services fund III created in section 56-1018B, Idaho Code;

(b) Twenty-eight dollars (\$28.00) of each fee for a seasonal or class A, B or C driver's license, and nineteen dollars and fifty cents (\$19.50) of each fee charged for a license pursuant to subsection (1) (b) of this section, and eight dollars and sixteen cents (\$8.16) of each fee charged for a license pursuant to subsection (1) (c) of this section shall be deposited in the state highway account;

(c) Twenty dollars (\$20.00) of each fee for a ~~class A, B or C~~ instruction commercial learner's permit or driver's license classification change shall be deposited in the state highway account;

(d) Four dollars (\$4.00) of each fee for a ~~class A, B or C~~ instruction commercial learner's permit shall be deposited in the emergency medical services fund III created in section 56-1018B, Idaho Code;

(e) Ten dollars (\$10.00) of each fee for a duplicate seasonal or class A, B or C driver's license, class A, B or C driver's license extension, or additional endorsement shall be deposited in the state highway account;

(f) Seven dollars and fifty cents (\$7.50) of each fee for a motorcycle endorsement and motorcycle endorsement instruction permit shall be deposited in the state highway account;

(g) Five dollars and thirty cents (\$5.30) of each fee for a four-year class D driver's license, and ten dollars and sixty cents (\$10.60) of each fee for an eight-year class D driver's license, and four dollars (\$4.00) of each fee charged for a license pursuant to subsection (1) (d) and (e) of this section, and one dollar and thirty-three cents (\$1.33) of each fee charged for a license pursuant to subsection (1) (f) of this section shall be deposited in the driver training fund;

(h) Twelve dollars and seventy cents (\$12.70) of each fee for a four-year class D driver's license, and twenty dollars and forty cents (\$20.40) of each fee for an eight-year class D driver's license, and ten dollars and fifty cents (\$10.50) of each fee charged for a license pursuant to subsection (1) (d) and (e) of this section, and six dollars and eighty-three cents (\$6.83) of each fee charged for a license pursuant to subsection (1) (f) of this section shall be deposited in the highway distribution fund;

(i) Two dollars and sixty cents (\$2.60) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the driver training fund;

(j) Seven dollars and forty cents (\$7.40) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the highway distribution fund;

(k) Ten dollars (\$10.00) of each fee for a class A, B or C skills test shall be deposited in the state highway account;

(l) One dollar (\$1.00) of each fee for a class A, B, C or four-year D driver's license, and two dollars (\$2.00) of each fee for an eight-year class D driver's license, and one dollar (\$1.00) of each fee charged for a license pursuant to subsection (1)(b), (d) and (e) of this section, and thirty-four cents (34¢) of each fee charged for a license pursuant to subsection (1)(c) and (f) of this section shall be deposited in the motorcycle safety program fund established in section 33-4904, Idaho Code;

(m) Six dollars and fifty cents (\$6.50) of each fee for a class D skills test shall be deposited into the state highway account; and

(n) Each voluntary contribution of two dollars (\$2.00) as described in subsection (2) of this section, less actual administrative costs associated with collecting and transferring such contributions, shall be deposited into the organ donation contribution fund created in section 49-2447, Idaho Code.

(10) The contractor administering a class A, B or C skills test shall be entitled to not more than sixty dollars (\$60.00) of the skills test fee. A contractor administering a class A, B or C skills test may collect an additional fee for the use of the contractor's vehicle for the skills test.

(11) Sixty dollars (\$60.00) of each restricted driving permit and each restricted school attendance driving permit shall be deposited in the state highway account.

(12) The department may issue seasonal class B or C driver's licenses to drivers who are employees of agri-chemical businesses, custom harvesters, farm retail outlets and suppliers, and livestock feeders that:

(a) Will only be valid for driving commercial vehicles that normally require class B or C commercial driver's licenses;

(b) Will be valid for seasonal periods that begin on the date of issuance and that are not to exceed one hundred eighty (180) days in a twelve (12) month period;

(c) May only be obtained twice in a driver's lifetime;

(d) Are valid only within a one hundred fifty (150) mile radius of the place of business or farm being serviced; and

(e) Will be valid only in conjunction with valid Idaho class D driver's licenses.

(13) The department may issue seasonal class B or C driver's licenses to drivers who:

(a) Have not violated the single license provisions of applicable federal regulations;

(b) Have not had any license suspensions, revocations or cancellations;

(c) Have not had any convictions in any vehicle for any offense listed in section 49-335(1) or (2), Idaho Code, or any one (1) serious traffic offense;

(d) Have at least one (1) year of driving experience with a class D or equivalent license in any type motor vehicle; and

(e) Are at least sixteen (16) years old.

SECTION 7. 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, commercial learner's permit, restricted school attendance driving permit, seasonal driver's license, driver's license or a motorcycle endorsement, except as otherwise provided by law. The examination shall include a vision screening and a test of the applicant's ability to read and understand highway signs regulating, warning, and directing traffic. A skills test shall be required for an applicant who has not been

previously licensed for the class of license requested, or who holds a license issued by another country unless a reciprocal agreement is in force. However, a skills test may be required for any and all other applicants at the discretion of the examiner or department for a class A, B, C or D driver's license or a motorcycle endorsement. In addition, the applicant's knowledge of traffic laws of this state and when a motorcycle endorsement is applied for, the applicant's knowledge of safe motorcycle operating practices and traffic laws specifically relating to motorcycle operation shall be tested by a written examination, except as provided in section 49-319, Idaho Code. At the discretion of the examiner, the prescribed written examination may be conducted orally.

(2) The knowledge and skills examinations for applicants for driver's licenses in class A, B or C shall be conducted in compliance with 49 CFR part 383.

(3) The skills test for a class A, B, C or D driver's license or for any endorsement shall be given by the department or its authorized agents. The skills examiner for a motorcycle endorsement shall be certified by the division of professional-technical education.

(4) The department shall not issue the following endorsements except as provided:

(a) A tank, double/triple trailer, or hazardous material endorsement unless the applicant, in addition to all other applicable qualifications, has passed an appropriate knowledge test.

(b) A passenger endorsement unless the applicant, in addition to all other applicable qualifications, has passed an appropriate knowledge and skills test.

(c) A school bus endorsement unless the applicant, in addition to all other applicable qualifications, has passed appropriate knowledge and skills tests. Until September 30, 2005, the department may waive the school bus endorsement skills test requirement if the applicant meets the conditions set forth in accordance with 49 CFR part 383.123.

(5) Any person failing to pass a knowledge or skills test for a class A, B, C or D driver's license, or a knowledge test for a seasonal driver's license, or any endorsement may not retake the test within three (3) calendar days of the failure.

(6) Any person retaking a knowledge or skills test for a driver's license shall pay the appropriate testing fee as specified in section 49-306, Idaho Code.

(7) The motorcycle skills test for a motorcycle endorsement shall be waived by the department:

(a) On and after September 1, 1998, if the applicant presents satisfactory evidence of successful completion of a recognized motorcycle rider training course approved by the division of professional-technical education;

(b) On and after September 1, 1998, if the applicant presents evidence of a motorcycle endorsement on his current license by a state or province which requires a motorcycle skills test equivalent to that required by Idaho law as determined by the division of professional-technical education;

(c) Until September 1, 1998.

(8) At the discretion of the department, an alternate skills test for the motorcycle endorsement may be administered when the endorsement is for operation of a three-wheeled motorcycle only.

(9) The department or its authorized agents may refuse to give an applicant a skills test if there are reasonable grounds to believe that the safety of the applicant, public, or the examiner would be jeopardized by doing so. Reasonable grounds would include, but not be limited to, the applicant's inability to pass the vision screening, written tests, or a statement by a li-

censed 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 8. That Section 6, Chapter 354, Laws of 2013, be, and the same is hereby amended to read as follows:

SECTION 6. Section 2 of this act shall be in full force and effect ~~on and after July 1, 2014, or~~ when the Director of the Idaho Transportation Department submits to the Secretary of State in writing that the Idaho Transportation Department's information technology system has been updated to support the Organ Donation Contribution Fund, ~~whichever date is later.~~

Approved March 17, 2015

CHAPTER 55  
(S.B. No. 1031)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-202, IDAHO CODE, TO REVISE A DEFINITION; AND AMENDING SECTION 36-404, IDAHO CODE, TO REVISE RESIDENCY REQUIREMENTS RELATING TO SENIOR RESIDENT COMBINATION LICENSES.

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

SECTION 1. That Section 36-202, Idaho Code, be, and the same is hereby amended to read as follows:

36-202. DEFINITIONS. Whenever the following words appear in title 36, Idaho Code, and orders and rules promulgated by the Idaho fish and game commission or the director of the Idaho department of fish and game, they shall be deemed to have the same meaning and terms of reference as hereinafter set forth. The present tense includes the past and future tenses, and the future, the present.

(a) "Title" means all of the fish and game laws and rules promulgated pursuant thereto.

(b) "Commission" means the Idaho fish and game commission. "Commissioner" means a member of the Idaho fish and game commission.

(c) "Department" means the Idaho department of fish and game.

(d) "Director" means the director of the Idaho department of fish and game or any person authorized to act in his name.

(e) "Employee" means any employee of the Idaho department of fish and game whose salary is paid entirely or in part by funds administered by the Idaho fish and game commission and whose appointment is made in accordance with chapter 53, title 67, Idaho Code, and related rules.

(f) "Person" means an individual, partnership, corporation, company, or any other type of association, and any agent or officer of any partnership, corporation, company, or other type of association. The masculine gender includes the feminine and the neuter. The singular, the plural, and the plural, the singular.

(g) "Wildlife" means any form of animal life, native or exotic, generally living in a state of nature provided that domestic cervidae as defined in section 25-3701, Idaho Code, shall not be classified as wildlife.

(h) "Trophy big game animal" means any big game animal deemed a trophy as defined in this subsection (h)1. through 8. For the purpose of this section, a score shall be determined from the antlers of the mule deer, white-tailed deer or elk as measured by the copyrighted Boone and Crockett scoring system. The highest of the typical or nontypical scores shall be used for determining the total score.

1. Mule deer: any buck scoring over one hundred fifty (150) points;
2. White-tailed deer: any buck scoring over one hundred thirty (130) points;
3. Elk: any bull scoring over three hundred (300) points;
4. Bighorn sheep: any ram;
5. Moose: any bull;
6. Mountain goat: any male or female;
7. Pronghorn antelope: any buck with at least one (1) horn exceeding fourteen (14) inches;
8. Caribou: any male or female.

(i) "Take" means hunt, pursue, catch, capture, shoot, fish, seine, trap, kill, or possess or any attempt to so do.

(j) "Hunting" means chasing, driving, flushing, attracting, pursuing, worrying, following after or on the trail of, shooting at, stalking, or lying in wait for, any wildlife whether or not such wildlife is then or subsequently captured, killed, taken, or wounded. Such term does not include stalking, attracting, searching for, or lying in wait for, any wildlife by an unarmed person solely for the purpose of watching wildlife or taking pictures thereof.

(k) "Fishing" means any effort made to take, kill, injure, capture, or catch any fish or bullfrog.

(l) "Trapping" means taking, killing, and capturing wildlife by the use of any trap, snare, deadfall, or other device commonly used to capture wildlife, and the shooting or killing of wildlife lawfully trapped, and includes all lesser acts such as placing, setting or staking such traps, snares, deadfalls, and other devices, whether or not such acts result in the taking of wildlife, and every attempt to take and every act of assistance to any other person in taking or attempting to take wildlife with traps, snares, deadfalls, or other devices.

(m) "Possession" means both actual and constructive possession, and any control of the object or objects referred to; provided that wildlife taken accidentally and in a manner not contrary to the provisions of this title shall not be deemed to be in possession while being immediately released live back to the wild.

(n) "Possession limit" means the maximum limit in number or amount of wildlife which may be lawfully in the possession of any person. "Possession limit" shall apply to wildlife being in possession while in the field or being transported to final place of consumption or storage.

(o) "Bag limit" means the maximum number of wildlife which may be legally taken, caught, or killed by any one (1) person for any particular period of time, as provided by order of the commission. The term "bag limit" shall be construed to mean an individual, independent effort and shall not be interpreted in any manner as to allow one (1) individual to take more than his "bag limit" toward filling the "bag limit" of another.

(p) "Buy" means to purchase, barter, exchange, or trade and includes any offer or attempt to purchase, barter, exchange, or trade.

(q) "Sell" means to offer or possess for sale, barter, exchange, or trade, or the act of selling, bartering, exchanging or trading.

(r) "Transport" means to carry or convey or cause to be carried or conveyed from one (1) place to another and includes an offer to transport, or receipt or possession for transportation.

(s) "Resident" means any person who has been domiciled in this state, with a bona fide intent to make this his place of permanent abode, for a pe-



riod of not less than six (6) months immediately preceding the date of application for any license, tag, or permit required under the provisions of this title or orders of the commission and who, when temporarily absent from this state, continues residency with intent to return, and who does not claim any resident privileges in any other state or country for any purpose. Such privileges include, but are not limited to: state where valid driver's license is issued; state of voter registration; state where resident state income taxes are filed; state where homeowner's tax exemption is granted. Provided that, until any such person has been continuously domiciled outside the state of Idaho for a sufficient period of time to qualify for resident hunting and fishing privileges in his new state of residence, said person shall be deemed not to have lost his residency in Idaho for the purposes of this title. However, mere ownership of real property or payment of property taxes in Idaho does not establish residency. Provided further that:

1. Idaho residents shall not lose their residency in Idaho if they are absent from the state for religious (not to exceed two (2) years) or full-time educational (not to exceed five (5) years) purposes, full-time to be defined by the educational institution attended, and do not claim residency or use resident privileges in any other state or country for any purpose.

2. Idaho residents who are in the military service of the United States and maintain Idaho as their official state of residence as shown on their current leave and earnings statement, together with their spouse and children under eighteen (18) years of age living in the household, shall be eligible for the purchase of resident licenses.

3. A member of the military service of the United States or of a foreign country, together with his spouse and children under eighteen (18) years of age residing in his household, who have been officially transferred, stationed, domiciled and on active duty in this state for a period of thirty (30) days last preceding application shall be eligible, as long as such assignment continues, to purchase a resident license. A member of the state national guard or air national guard, domiciled in this state for a period of thirty (30) days last preceding application shall be eligible, as long as such residency continues, to purchase a resident license.

4. Any person enrolled as a corpsman at a job corps center in Idaho shall be eligible, as long as he is so enrolled, to obtain a resident fishing license irrespective of his length of residence in this state.

5. Any foreign exchange student enrolled in an Idaho high school shall be eligible, as long as he is so enrolled, to obtain a resident fishing license irrespective of his length of residence in this state.

(t) "Senior resident" means any person who is over sixty-five (65) years of age who has been a resident of the state of Idaho as hereinbefore provided for not less than five (5) years meets the definition of a "resident" pursuant to the provisions of this section.

(u) "Nonresident" means any person who does not qualify as a resident.

(v) "Order, rule, regulation and proclamation" are all used interchangeably and each includes the others.

(w) "Blindness" means sight that does not exceed 20/200 as provided by the administrative guidelines of section 56-213, Idaho Code.

(x) "Public highway" means the traveled portion of, and the shoulders on each side of, any road maintained by any governmental entity for public travel, and includes all bridges, culverts, overpasses, fills, and other structures within the limits of the right-of-way of any such road.

(y) "Motorized vehicle" means any water, land or air vehicle propelled by means of steam, petroleum products, electricity, or any other mechanical power.

(z) "Commercial fish hatchery" means any hatchery, pond, lake or stream or any other waters where fish are held, raised, or produced for sale but

shall not include facilities used for the propagation of fish commonly considered as ornamental or aquarium varieties.

(aa) "License" means any license, tag, permit or stamp.

(bb) "License vendor" means any person authorized to issue or sell licenses.

(cc) "Proclamation" means the action by the commission and publication of the pertinent information as it relates to the seasons and limits for taking wildlife.

SECTION 2. That Section 36-404, Idaho Code, be, and the same is hereby amended to read as follows:

36-404. CLASSES OF LICENSES. The licenses required by the provisions of this title shall be of eight (8) classes. Classes one (1) through five (5) and eight (8) in this section may be purchased or obtained only by persons who meet residency requirements under the provisions of section 36-202(s) and (t), Idaho Code, or who are valid holders of a lifetime license certificate.

Class 1: Adult Combination -- Hunting -- Fishing -- Trapping Licenses. Licenses to be issued only to persons who are residents of the state of Idaho.

Class 2: Junior Hunting -- Trapping.

(a) Junior hunting license. Licenses to be issued only to persons who are residents of the state of Idaho and are between ten (10) and seventeen (17) years of age, inclusive. Provided, that a license may be issued to qualified persons who are nine (9) years of age to allow the application for a controlled hunt big game tag or turkey permit; however, said persons shall not hunt until they are ten (10) years of age. Persons with a junior hunting license who are ten (10) or eleven (11) years of age shall be accompanied in the field by an adult licensed to hunt in the state of Idaho.

(b) Junior trapping licenses. Licenses to be issued only to persons who are residents of the state of Idaho and are seventeen (17) years of age or younger.

Class 3: Junior Combination -- Fishing Licenses. Licenses to be issued only to persons who are residents of the state of Idaho between fourteen (14) and seventeen (17) years of age, inclusive.

Class 4: Senior Resident Combination License. Licenses to be issued only to persons over sixty-five (65) years of age who ~~have been bona fide residents of the state of Idaho for a continuous period of not less than five (5) years last preceding application~~ meet the definition of "resident" pursuant to the provisions of section 36-202, Idaho Code.

Class 5: Resident Lifetime Combination -- Hunting -- Fishing License. Licenses to be issued only to persons who are valid holders of a lifetime license certificate.

Class 6: Nonresident Combination -- Hunting -- Fishing -- Trapping -- Junior Mentored Hunting -- Disabled Hunting License for American Veteran Participating in a Hunt in Association with a Qualified Organization -- Licenses. Licenses required of persons who are nonresidents.

Class 7: Duplicate License -- Tag. A license or tag to be issued as a replacement for an original license or tag lost or mutilated. Said license or tag shall be issued in the same class and type as the original and upon issuance of such duplicate license or tag the original license or tag shall become null and void.

Class 8: Resident Hunting and Fishing License with Tags, Permits and Stamps. Licenses to be issued only to persons who meet residency requirements under the provisions of section 36-202(s) and (t), Idaho Code.

Approved March 17, 2015

CHAPTER 56  
(S.B. No. 1037)

AN ACT

RELATING TO DENTISTRY; AMENDING SECTION 54-920, IDAHO CODE, TO REMOVE LANGUAGE AND CLARIFY LICENSE STATUS AFTER A FAILURE TO RENEW AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 54-921, IDAHO CODE, TO CLARIFY THE LICENSE REINSTATEMENT PROCESS.

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

SECTION 1. That Section 54-920, Idaho Code, be, and the same is hereby amended to read as follows:

54-920. LICENSING -- LICENSE FEES -- BIENNIAL RENEWAL OF LICENSES -- LATE FEES AND RETURNED CHECKS -- CLASSIFICATIONS OF LICENSES -- RIGHTS OF LICENSEES -- NOTIFICATION OF CHANGE OF ADDRESS. (1) Each person determined by the board as qualified for licensure under this chapter shall pay the prescribed biennial license fee to the board prior to issuance of a license. Unless otherwise specified on a license, licenses issued by the board shall be effective for the biennial licensing period specified in this section. The biennial licensing period for dental licenses shall be a two (2) year period from October 1 of each even-numbered calendar year to September 30 of the next successive even-numbered calendar year. The biennial licensing period for dental hygiene licenses shall be a two (2) year period from April 1 of each odd-numbered calendar year to March 31 of the next successive odd-numbered calendar year. Unless otherwise specified on a license, any license issued during a biennial licensing period shall be effective until the beginning date of the next successive biennial licensing period and the board may prorate the amount of the license fee from the date of issuance of the license until the beginning date of the next applicable biennial licensing period at the discretion of the board. A license issued by the board shall expire unless renewed in the manner specified in this section.

(2) The nonrefundable biennial license fees shall be fixed by the board, but shall not exceed the following amounts:

- (a) Four hundred dollars (\$400) for a dentist with an active status;
- (b) Two hundred dollars (\$200) for a dentist with an inactive status;
- (c) Two hundred twenty dollars (\$220) for a dental hygienist with an active status;
- (d) One hundred twelve dollars (\$112) for a dental hygienist with an inactive status;
- (e) Four hundred dollars (\$400) for a dentist with a specialist status;
- or
- (f) Twenty dollars (\$20.00) for a dentist or dental hygienist with a retirement status.

(3) A license issued by the board shall be renewed as prescribed in this section. Prior to the expiration of the effective period of a license, the board shall provide notice of renewal to the licensee's address of record on file with the board. To renew a dental license, each licensee shall submit a properly completed renewal application and the appropriate biennial license fee to the board prior to September 30 of every even-numbered calendar year. To renew a dental hygiene license, each licensee shall submit a properly completed renewal application and the appropriate biennial license fee to the board prior to March 31 of each odd-numbered calendar year. Each licensee determined by the board as qualified for renewal of a license shall be issued a license for the applicable biennial licensing period.

(4) ~~The following procedure shall be followed by the board for all licensees who fail to submit a properly completed renewal application and ap-~~

~~propriate biennial license fee on or before the expiration of the effective period of a license. A license that expires by reason of a licensee's failure to satisfy the renewal requirements shall not be considered to be a disciplinary action by the board and shall result in the termination of the licensee's right to practice dentistry or dental hygiene in the state.~~

~~(a) The board shall mail a notice of failure to renew a license to the licensee's address; and~~

~~(b) The notice of failure to renew a license shall advise the licensee that he has failed to comply with the board's license renewal requirements and that a Failure to timely submit a properly completed complete renewal application, the appropriate biennial and license fee shall result in expiration of the license and termination of the licensee's right to practice. Failure to submit a complete renewal application, license fee and a fifty dollar (\$50.00) late fee within thirty (30) days of the date upon which the board's notice was mailed shall result in the expiration of his the license shall result in cancellation of the license.~~

(5) Any person who delivers a check or other payment to the board that is returned to the board unpaid by the financial institution upon which it was drawn shall pay to the board as an administrative cost, in addition to any other amount owing, the amount of fifty dollars (\$50.00). Following notification by the board of the returned check or other payment, the person shall make payment of all moneys owing to the board by certified check or money order within thirty (30) days of the date of notification. A failure to submit the necessary remittance within the thirty (30) day period may result in the expiration of a license or constitute grounds for the board to deny, cancel, suspend or revoke a license.

(6) The board of dentistry may issue different classes of licenses as defined in this subsection.

(a) The term "license with active status" means a license issued by the board to a qualified person who is authorized to be an active practitioner of dentistry or dental hygiene in the state of Idaho. A person's right to be issued and maintain a license with active status shall not be affected by any absence, not exceeding two (2) years, from active practice in Idaho by reason of illness or vacation. A person's right to be issued and maintain a license with active status shall not be affected by any absence from active practice in Idaho for any period while serving on active duty in the armed forces of the United States, while employed in the United States public health service or United States veterans administration, or while enrolled in board-approved postgraduate educational courses, either within or without the state of Idaho. Each applicant or licensee requesting an active status license must state that he intends to fulfill the requirements for that status.

(b) The term "license with an inactive status" means a license issued by the board to a qualified person who is not authorized to be an active practitioner of dentistry or dental hygiene in the state of Idaho. A person issued a license with an inactive status is not entitled to practice dentistry or dental hygiene in the state of Idaho.

(c) The terms "license with special status" and "license with provisional status" mean licenses issued by the board to a qualified person on a provisional, conditional, restricted or limited basis under the terms of which the licensee is authorized to practice dentistry or dental hygiene in the state of Idaho subject to conditions, limitations and requirements imposed by the board. The conditions, limitations and requirements imposed by the board may include, but are not limited to, a limitation on the effective period of the license, a requirement that specific conditions must be fulfilled in order for the license to remain effective, a requirement that specified education, examinations and skills testing be successfully completed during the effective pe-

riod of the license, a restriction on the scope of permissible services that the licensee is authorized to perform, a restriction on the type of patients for whom treatment may be rendered and a restriction on the locations at which the licensee can perform authorized services.

(d) The term "license with retirement status" means a license issued to a person who was previously licensed as a dentist or dental hygienist in Idaho who no longer intends to practice dentistry or dental hygiene. A license with retirement status does not permit the holder to practice dentistry or dental hygiene in the state of Idaho. A license with retirement status cannot be converted to a license with active or inactive status other than by filing an application for licensure and qualifying as required of a ~~first-time~~ first-time applicant.

(7) (a) The board may issue a license with active status to any qualified applicant or qualified licensee who is an active practitioner of dentistry or dental hygiene in the state of Idaho or who signifies to the board in writing that, upon issuance of an initial license or renewal of a biennial license, he intends to be an active practitioner in this state within two (2) years. Renewal of a license with active status requires compliance with requirements as determined by the board.

(b) The board may issue a license with inactive status to any qualified person who fulfilled the licensure requirements but, for any reason, is not eligible for a license with active status. Renewal of a license with inactive status requires compliance with requirements as determined by the board.

(c) The board may issue a license with provisional status or special status to any person who fulfills, or substantially fulfills, the applicable licensure requirements when the board, acting in its discretion, determined that special circumstances existed which, for the protection of the public health, safety and welfare, required that specific conditions, restrictions or limitations be imposed on the license. A license with special status or provisional status entitles the holder thereof to practice dentistry or dental hygiene in the state of Idaho subject to the conditions, restrictions and limitations specifically determined by the board and for the period of time prescribed. A provisional license is effective for the period specified by the board and may not be renewed. The board shall develop rules to include definitions, application and renewal requirements, limitations of practice and other conditions regarding provisional and special status licenses.

(d) The board may convert a license with inactive status to a license with active status in the event the holder pays the license fee prescribed for licenses with active status and submits to the board satisfactory evidence of:

- (i) Compliance with the requirements of this chapter and all rules promulgated under the provisions of this chapter;
- (ii) Good moral character and good professional conduct; and
- (iii) A minimum of one thousand (1,000) hours of clinical dentistry or dental hygiene practiced within the previous two (2) years or ~~has been employed~~ employment full time as a dental or dental hygiene instructor at an American dental association accredited dental or dental hygiene school or ~~has been enrolled~~ enrollment in a ~~board approved~~ board-approved postgraduate educational program.

(e) Persons unable to otherwise fully meet the requirements for conversion of an inactive status license to an active status license may convert their license upon board approval.

(8) Each person licensed under this chapter shall notify the board in writing of any change in the person's name or address of record within thirty (30) days after the change has taken place.

SECTION 2. That Section 54-921, Idaho Code, be, and the same is hereby amended to read as follows:

54-921. REINSTATEMENT OF CANCELED LICENSE. (1) A license that has been canceled for less than two (2) years may be reinstated by submitting all required application and license fees and submitting evidence of completion of all required continuing education hours.

~~(2) A person whose license that has expired for failure to fully comply with the board's license renewal requirements been canceled for more than two (2) years may have such qualification be reinstated by filing an application for licensure showing possession by him of satisfying the qualifications required license requirements of a first-time applicant for licensure, and additionally the fact, time and cause of cancellation of his previous qualification. He shall pay to the board an submitting all required application and license fees in the same amount as prescribed by the board under the provisions of section 54-916, Idaho Code, which fee shall not be refunded. If found qualified as in the case of a first applicant for licensure, he may be required to take and pass such examinations as, in the discretion of the board, shall show that he possesses the knowledge and skill requisite to the practice of dentistry or dental hygiene as the case may be. In the event he passes such examinations there shall be issued to him a certificate of qualification.~~

Approved March 17, 2015

CHAPTER 57  
(S.B. No. 1045)

AN ACT

RELATING TO PORT DISTRICTS; AMENDING SECTION 70-1715, IDAHO CODE, TO REVISE REQUIREMENTS FOR AUDITS OF PORT DISTRICTS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 70-1715, Idaho Code, be, and the same is hereby amended to read as follows:

70-1715. PORT AUDITOR. The port commission shall appoint a port auditor who shall be a certified public accountant of the state of Idaho. The originals of all port vouchers, all canceled checks and drafts, all bank statements and other documents which in the opinion of the port auditor reasonably relate to the financial and fiscal affairs of the district shall be delivered to and held by the port auditor who shall prepare and maintain the books of account of the port district. All such vouchers, checks, drafts, instruments, books of account and records shall be public records, and, upon the termination of the appointment of any port auditor, shall be forthwith delivered by such auditor to the port commission. The port auditor shall prepare such financial statements as the port commission shall direct, and not less than once each quarter shall furnish to the port commission a written statement of the receipts and disbursements of the port district for the preceding quarter year, and of all port district funds and accounts, which quarterly statements shall be certified by the port auditor and filed with the county auditor of each of the counties in which the port district is located, and an annual statement shall be filed with the public utilities commission. The annual financial statement of the district, so prepared, shall be published in a newspaper printed within the district, by one (1) insertion thereof, within forty-five (45) days of the end of the port

district fiscal year. Such publication shall include a statement that the original of such financial statement is on file, and may be examined at the office of the county treasurer of each county in which the port district, or any part thereof, exists. In addition thereto, the port auditor shall prepare an annual audited financial statement. The port district shall file one (1) copy of each completed audited financial statement with the legislative services office, as provided in section 67-450B, Idaho Code, within nine (9) months after the end of its fiscal year. Within thirty (30) days of the acceptance by the port commission of the annual audited financial statement, the port district shall publish a notice that the audited financial statement is available for review by the public. Such publication shall include a statement that the original of such audited financial statement is on file and may be examined at the office of the port district.

Approved March 17, 2015

CHAPTER 58  
(S.B. No. 1050)

AN ACT

RELATING TO ADVANCED OPPORTUNITIES; REPEALING SECTION 33-1620, IDAHO CODE, RELATING TO THE MASTERY ADVANCEMENT PROGRAM; REPEALING SECTION 33-1621, IDAHO CODE, RELATING TO APPLICATION TO PARTICIPATE IN PROGRAM; REPEALING SECTION 33-1622, IDAHO CODE, RELATING TO PROGRAM ASSESSMENT AND STUDENT ASSESSMENT; REPEALING SECTION 33-1623, IDAHO CODE, RELATING TO STUDENT ADVANCEMENT, DUAL CREDIT, EARLY GRADUATION, MASTERY ADVANCEMENT SCHOLARSHIP AND RESIDUAL SAVINGS; REPEALING SECTION 33-1626, IDAHO CODE, RELATING TO ADVANCED OPPORTUNITIES; REPEALING SECTION 33-1628, IDAHO CODE, RELATING TO THE "8 IN 6 PROGRAM"; AMENDING TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 46, TITLE 33, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE FOR ADVANCED OPPORTUNITIES, TO PROVIDE FOR THE "8 IN 6 PROGRAM," TO PROVIDE FOR THE MASTERY ADVANCEMENT PROGRAM AND TO PROVIDE RULEMAKING AUTHORITY; AND AMENDING SECTION 33-1002, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Sections 33-1620 through 33-1623, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Section 33-1626, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 33-1628, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 46, Title 33, Idaho Code, and to read as follows:

CHAPTER 46  
ADVANCED OPPORTUNITIES

33-4601. DEFINITIONS. For purposes of this chapter, the following definitions shall apply:

- (1) "Credit" means middle or high school credit.
- (2) "Dual credit" as defined in section 33- 5102, Idaho Code.
- (3) "Full course load" means at least twelve (12) credits per school year for grades 7-12.
- (4) "Overload course" means a course taken that is in excess of a full course load, including summer courses.
- (5) "Parent" means parent or parents or guardian or guardians.
- (6) "Public schools" means an Idaho school district, charter school or Idaho tribal school.
- (7) "School year" means the normal school year that begins upon the conclusion of the break between grades and ends upon the beginning of the same break of the following year.

33-4602. ADVANCED OPPORTUNITIES. (1) Students attending public schools in Idaho and completing all state high school graduation requirements at any time prior to the beginning of their final twelfth grade semester or trimester term, except the senior project and any other course that the state board of education requires to be completed during the final year of high school, shall be eligible for assistance in paying for:

- (a) Dual credit courses, up to eighteen (18) credits per semester term or twelve (12) credits per trimester term of postsecondary credits. Average daily attendance shall be counted as normal for participating students for public school funding purposes. The state department of education shall distribute funds from the moneys appropriated for the educational support program to defray the per credit cost charged for such dual credit courses by a postsecondary educational institution accredited by an organization recognized by the state board of education. The amount so distributed shall not exceed seventy-five dollars (\$75.00) per credit hour.
  - (b) Advanced placement or other college credit-bearing or professional certificate examinations, up to six (6) examinations per semester or four (4) per trimester. The state department of education shall distribute funds from the moneys appropriated for the educational support program to defray the examination cost charged. The amount so distributed shall not exceed ninety dollars (\$90.00) per examination.
- (2) Any student attending public school in Idaho who has not qualified pursuant to subsection (1) of this section shall qualify for a course fee payment as follows:
- (a) Any student who has attained grade 11 shall qualify for an amount equal to the amount necessary to cover the dual credit fee set by the state board of education for up to three (3) postsecondary semester or equivalent credits and examinations pursuant to subsection (1)(b) of this section. The combined amount for such credits earned and examinations shall not exceed the dual credit fee set by the board for those credits.
  - (b) Any student who has attained grade 12 shall qualify for an amount equal to the amount necessary to cover the dual credit fee set by the state board of education for up to six (6) postsecondary semester or equivalent credits and examinations described pursuant to subsection (1)(b) of this section. The combined amount for such credits earned and



examinations shall not exceed the dual credit fee set by the board for those credits.

These moneys may be used to pay an amount not to exceed the price to the student of such courses and examinations pursuant to the limitations stated in this subsection. Payments made under this subsection shall be made from the moneys appropriated for the educational support program. No later than January 15, the state department of education shall annually report to the education committees of the senate and house of representatives details regarding the number of students benefitting from assistance with the cost of dual credit courses and examinations, the number of credits awarded and amounts paid pursuant to this subsection during the previous school year.

(3) The state department of education shall reimburse school districts, charter schools or public postsecondary educational institution, as applicable, for such costs, up to the stated limits, within one hundred twenty-five (125) days of receiving the necessary data upon which reimbursements may be paid. If a student fails to earn credit for any course or examination for which the department has paid a reimbursement, the student must pay for and successfully earn credit for one (1) such course or examination before the department may pay any further reimbursements for the student.

(4) The state department of education shall reimburse community colleges or counties, as applicable, for any out-of-district county tuition payments that would otherwise be made by a county to a community college pursuant to section 33-2110A, Idaho Code. Such reimbursements shall be in an amount not to exceed fifty dollars (\$50.00) per credit hour and only for dual credit courses taken pursuant to this section.

(5) Policies and procedures for participating in the program established by the public school must be such that students have an opportunity to participate in the program and meet district established timelines and requirements for financial transactions, transcribing credits and state department of education reporting.

33-4603. "8 IN 6 PROGRAM." (1) A program is hereby established in the state department of education to be known as the "8 in 6 program."

(2) The "8 in 6 program" encourages completion of high school and the first two (2) years of college or professional-technical preparation in six (6) years instead of eight (8) years, and is accomplished by taking overload courses in addition to a full course load.

(3) Participation in the "8 in 6 program" requires parent and student agreement to program requirements and completion of the state department of education's participation form documenting the program requirements. Participation requirements are as follows:

(a) The student take and successfully complete dual credit or professional-technical education courses for at least a portion of the student's courses during the eleventh and/or twelfth grade years, provided that funding for this requirement will not be provided by the "8 in 6 program"; and

(b) The student take and successfully complete a full course load and at least one (1) overload course each year.

(4) For all students meeting the participation requirements, the state shall pay for:

(a) The lesser of the actual cost of each one (1) credit overload course or two hundred twenty-five dollars (\$225);

(b) No more than two (2) credits of overload courses per student per semester;

(c) No more than four (4) credits of overload courses per student per school year; and

(d) No more than eight (8) credits of overload courses per student total.

(5) Public schools shall establish timelines and requirements for participation in the program, including implementing procedures for the appropriate transcription of credits, reporting of program participation and financial transaction requirements. Public schools shall make reasonable efforts to ensure that any student who considers participating in the program considers the challenges and time necessary to succeed in the program. Such efforts by the district shall be performed prior to a student participating in the program. Policies and procedures for participating in the program established by the public schools must be such that students have an opportunity to participate in the program and meet district established timelines and requirements for financial transactions, transcribing credits and state department of education reporting.

(6) Eligible courses. To qualify as an eligible course for the program, the course must be one offered by a provider accredited by the organization that accredits Idaho high schools and be taught by an individual certified to teach the grade and subject area of the course in Idaho.

(7) Parents of participating students may enroll their child in any eligible course, with or without the permission of the public school, with the exception of tribal schools, in which the student is enrolled, up to the course enrollment limits provided for in subsection (2) of this section. Tribal school students must follow their schools' enrollment policies and procedures. Public school personnel shall assist parents in the process of enrolling students in such courses. Each participating student's transcript at the public school at which the student is enrolled shall include the credits earned and grades received by the student for any overload courses taken pursuant to this section. For an eligible course to be transcribed as meeting the requirements of a core subject as identified in Idaho administrative rule, the course must meet the approved content standards for the applicable subject and grade level.

33-4604. MASTERY ADVANCEMENT PROGRAM. (1) The mastery advancement program permits students in Idaho public schools to work at their own pace and complete classes or years of school at an accelerated pace.

(2) Application to participate in program. Any public school may participate in the mastery advancement program by submitting a completed application to the state department of education on a form established by the department. Any public school that submits a completed application shall be allowed to participate in the program.

(3) Program assessment -- student assessment.

(a) Every participating public school shall measure participating student performance and achievement. Performance and achievement measures shall include, but not be limited to, standardized test scores of participating students, successful completion of courses and program participation dropout rates. The performance and achievement measures provided for in this subsection shall be reported to the state department of education by June 30 each year. The state department of education shall adopt end-of-course assessments for all core subject areas for grades 7-12 and appropriate benchmarks for grades 1-6.

(b) Students may request to take an end-of-course assessment by completing a form provided by the state department of education. The student's request shall be made pursuant to collaboration between the student, the student's teachers, the school administration and the student's parents or guardians.

(c) In order to receive credit for the course, the student shall score no less than eighty-five percent (85%) on the end-of-course assessment.

(i) When a student enrolled in grades 7-12 successfully passes an end-of-course assessment as provided in this paragraph, the student shall be counted as having completed all required coursework for that course and the school, with the exception of Idaho tribal

schools, shall be funded for such student based upon either the actual hours of attendance or the course that the student has successfully passed, whichever is more advantageous to the school, up to the maximum of one (1) full-time equivalent student.

(ii) When a student enrolled in grades 1-6 successfully completes a benchmark as provided in this paragraph, the student shall be counted as having completed all required coursework for that grade and the school shall be funded for such student, based upon either the actual hours of attendance or the grade that the student successfully passed, whichever is more advantageous to the school, up to the maximum of one (1) full-time equivalent student.

(4) Student advancement -- mastery advancement program -- residual savings.

(a) Any student who successfully completes a public school's grades 1-12 curriculum at least one (1) year early shall be eligible for a mastery advancement scholarship regardless of whether the public school participates in the mastery advancement program, if such student can show that they have met all state and public school graduation requirements and attended an Idaho public school for at least four (4) years. Students who have attended an Idaho public school for less than four (4) years and who have completed all graduation requirements are eligible to receive a mastery advancement scholarship at a reduced rate not to exceed one (1) semester of scholarship for each year of Idaho public school attendance.

(b) A participating student is not required to graduate early and may choose to participate in dual credit or advanced placement classes as is the current practice.

(c) Mastery advancement scholarships may be used for tuition and fees at any Idaho public postsecondary educational institution. The amount of the scholarship shall equal thirty-five percent (35%) of the statewide average daily attendance-driven funding per enrolled pupil for each year of grades 1-12 curriculum avoided by the student's early graduation. Each participating school district or charter school shall receive an amount equal to each such awarded scholarship.

(d) The state department of education shall annually report no later than January 15 to the education committees of the senate and house of representatives, the number of scholarships awarded pursuant to this program during the previous school year by public schools. The report shall also include a fiscal note reflecting the amount of moneys expended for such scholarships.

(e) No student shall be eligible for more than three (3) years of a mastery advancement scholarship.

(f) Participating school districts and charter schools are directed to collaborate with Idaho public postsecondary educational institutions to assist students who seek to graduate from high school early in enrolling in postsecondary courses. Participating school districts, charter schools and Idaho public postsecondary educational institutions shall report to the state board of education and the education committees of the senate and house of representatives any difficulties or obstacles they face in providing assistance to participating students.

33-4605. RULEMAKING AUTHORITY. The state board of education may promulgate rules to implement the provisions of this chapter.

SECTION 5. That Section 33-1002, Idaho Code, be, and the same is hereby amended to read as follows:

33-1002. EDUCATIONAL SUPPORT PROGRAM. The educational support program is calculated as follows:

(1) State Educational Support Funds. Add the state appropriation, including the moneys available in the public school income fund, together with all miscellaneous revenues to determine the total state funds.

(2) From the total state funds subtract the following amounts needed for state support of special programs provided by a school district:

(a) Pupil tuition-equivalency allowances as provided in section 33-1002B, Idaho Code;

(b) Transportation support program as provided in section 33-1006, Idaho Code;

(c) Feasibility studies allowance as provided in section 33-1007A, Idaho Code;

(d) The approved costs for border district allowance, provided in section 33-1403, Idaho Code, as determined by the state superintendent of public instruction;

(e) The approved costs for exceptional child approved contract allowance, provided in subsection 2. of section 33-2004, Idaho Code, as determined by the state superintendent of public instruction;

(f) Certain expectant and delivered mothers allowance as provided in section 33-2006, Idaho Code;

(g) Salary-based apportionment calculated as provided in sections 33-1004 through 33-1004F, Idaho Code;

(h) Unemployment insurance benefit payments according to the provisions of section 72-1349A, Idaho Code;

(i) For expenditure as provided by the public school technology program;

(j) For employee severance payments as provided in section 33-521, Idaho Code;

(k) For distributions to the Idaho digital learning academy as provided in section 33-1020, Idaho Code;

(l) For charter school facilities funds and reimbursements paid pursuant to section 33-5208(5), Idaho Code;

(m) For an online course portal as provided for in section 33-1024, Idaho Code;

(n) For advanced opportunities as provided for in section 33-~~1626~~4602, Idaho Code;

(o) For the "8 in 6 Pprogram" as provided for in section 33-~~1628~~4603, Idaho Code;

(p) For additional math and science courses for high school students as provided in section 33-1021, Idaho Code;

(q) For leadership premiums as provided in section 33-1004J, Idaho Code;

(r) For the support of provisions that provide a safe environment conducive to student learning and maintain classroom discipline, an allocation of \$300 per support unit; and

(s) Any additional amounts as required by statute to effect administrative adjustments or as specifically required by the provisions of any bill of appropriation;

to secure the total educational support distribution funds.

(3) Average Daily Attendance. The total state average daily attendance shall be the sum of the average daily attendance of all of the school districts of the state. The state board of education shall establish rules setting forth the procedure to determine average daily attendance and the time for, and method of, submission of such report. Average daily attendance calculation shall be carried out to the nearest hundredth. Computation of average daily attendance shall also be governed by the provisions of section 33-1003A, Idaho Code.

(4) Support Units. The total state support units shall be determined by using the tables set out hereafter called computation of kindergarten support units, computation of elementary support units, computation of secondary support units, computation of exceptional education support units, and computation of alternative school secondary support units. The sum of all of the total support units of all school districts of the state shall be the total state support units.

COMPUTATION OF KINDERGARTEN SUPPORT UNITS

Average Daily

Attendance	Attendance Divisor	Units Allowed
41 or more....	40.....	1 or more as computed
31 - 40.99 ADA....	-.....	1
26 - 30.99 ADA....	-.....	.85
21 - 25.99 ADA....	-.....	.75
16 - 20.99 ADA....	-.....	.6
8 - 15.99 ADA....	-.....	.5
1 - 7.99 ADA....	-.....	count as elementary

COMPUTATION OF ELEMENTARY SUPPORT UNITS

Average Daily

Attendance	Attendance Divisor	Minimum Units Allowed
300 or more ADA.....	.....	.. 15
	..23...grades 4,5 & 6....	
	..22...grades 1,2 & 3....1994-95	
	..21...grades 1,2 & 3....1995-96	
	..20...grades 1,2 & 3....1996-97 and each year thereafter.	
160 to 299.99 ADA...	20.....	8.4
110 to 159.99 ADA...	19.....	6.8
71.1 to 109.99 ADA...	16.....	4.7
51.7 to 71.0 ADA...	15.....	4.0
33.6 to 51.6 ADA...	13.....	2.8
16.6 to 33.5 ADA...	12.....	1.4
1.0 to 16.5 ADA...	n/a.....	1.0

## COMPUTATION OF SECONDARY SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
750 or more....	18.5.....	47
400 - 749.99 ADA....	16.....	28
300 - 399.99 ADA....	14.5.....	22
200 - 299.99 ADA....	13.5.....	17
100 - 199.99 ADA....	12.....	9
99.99 or fewer	Units allowed as follows:	
Grades 7-12	.....	8
Grades 9-12	.....	6
Grades 7- 9	.....	1 per 14 ADA
Grades 7- 8	.....	1 per 16 ADA

## COMPUTATION OF EXCEPTIONAL EDUCATION SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
14 or more....	14.5.....	1 or more as computed
12 - 13.99....	-.....	1
8 - 11.99....	-.....	.75
4 - 7.99....	-.....	.5
1 - 3.99....	-.....	.25

## COMPUTATION OF ALTERNATIVE SCHOOL SECONDARY SUPPORT UNITS

Pupils in Attendance	Attendance Divisor	Minimum Units Allowed
12 or more.....	12.....	1 or more as computed

In applying these tables to any given separate attendance unit, no school district shall receive less total money than it would receive if it had a lesser average daily attendance in such separate attendance unit. In applying the kindergarten table to a kindergarten program of less days than a full school year, the support unit allowance shall be in ratio to the number of days of a full school year. The attendance of students attending an alternative secondary school in a school district reporting less than one hundred (100) secondary students in average daily attendance shall not be assigned to the alternative secondary table if the student is from a school district reporting less than one hundred (100) secondary students in average daily attendance, but shall instead be assigned to the secondary table of the school district in which they are attending the alternative secondary school, unless the alternative secondary school in question serves students from multiple districts reporting less than one hundred (100) secondary students in average daily attendance. The tables for exceptional education and alternative school secondary support units shall be applicable only for programs approved by the state department of education following rules established by the state board of education. Moneys generated from computation of support units for alternative schools shall be utilized for alternative school programs. School district administrative and facility costs may be included as part of the alternative school expenditures.

(5) State Distribution Factor per Support Unit. Divide educational support program distribution funds, after subtracting the amounts necessary to pay the obligations specified in subsection (2) of this section, by the total state support units to secure the state distribution factor per support unit.

(6) District Support Units. The number of support units for each school district in the state shall be determined as follows:

(a) (i) Divide the actual average daily attendance, excluding students approved for inclusion in the exceptional child educational program, for the administrative schools and each of the separate schools and attendance units by the appropriate divisor from the tables of support units in this section, then add the quotients to obtain the district's support units allowance for regular students, kindergarten through grade 12 including alternative school secondary students. Calculations in application of this subsection shall be carried out to the nearest hundredth.

(ii) Divide the combined totals of the average daily attendance of all preschool, kindergarten, elementary, secondary, juvenile detention center students and students with disabilities approved for inclusion in the exceptional child program of the district by the appropriate divisor from the table for computation of exceptional education support units to obtain the number of support units allowed for the district's approved exceptional child program. Calculations for this subsection shall be carried out to the nearest hundredth when more than one (1) unit is allowed.

(iii) The total number of support units of the district shall be the sum of the total support units for regular students, ~~subsection (6)(a) subparagraph~~ (i) of this section paragraph, and the support units allowance for the approved exceptional child program, ~~subsection (6)(a) subparagraph~~ (ii) of this section paragraph.

(b) Total District Allowance Educational Program. Multiply the district's total number of support units, carried out to the nearest hundredth, by the state distribution factor per support unit and to this product add the approved amount of programs of the district provided in subsection (2) of this section to secure the district's total allowance for the educational support program.

(c) District Share. The district's share of state apportionment is the amount of the total district allowance, ~~subsection (6) paragraph~~ (b) of this subsection.

(d) Adjustment of District Share. The contract salary of every non-certificated teacher shall be subtracted from the district's share as calculated from the provisions of ~~subsection (6) paragraph~~ (c) of this subsection.

(7) Property Tax Computation Ratio. In order to receive state funds pursuant to this section, a charter district shall utilize a school maintenance and operation property tax computation ratio for the purpose of calculating its maintenance and operation levy, that is no greater than that which it utilized in tax year 1994, less four-tenths of one percent (.4%). As used herein, the term "property tax computation ratio" shall mean a ratio determined by dividing the district's certified property tax maintenance and operation budget by the actual or adjusted market value for assessment purposes as such values existed on December 31, 1993. Such maintenance and operation levy shall be based on the property tax computation ratio multiplied by the actual or adjusted market value for assessment purposes as such values existed on December 31 of the prior calendar year.

CHAPTER 59  
(S.B. No. 1024)

AN ACT

RELATING TO IDAHO ENERGY RESOURCES AUTHORITY; AMENDING SECTION 67-8908, IDAHO CODE, TO REVISE THE AUTHORITY'S POWERS, TO PROVIDE ADDITIONAL POWERS REGARDING CONSERVATION MEASURES AND TO CLARIFY THAT THE AUTHORITY IS NOT A TAXING DISTRICT; AMENDING SECTION 67-8909, IDAHO CODE, TO REVISE POWERS OF THE AUTHORITY TO PLEDGE AND ASSIGN ITS INTEREST IN A FACILITY AND TO PROVIDE REQUIREMENTS FOR THE PLEDGE OR ASSIGNMENT; AMENDING CHAPTER 89, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-8926, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE FOR CONSERVATION MEASURES AND TO PROVIDE BONDING AUTHORITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-8908, Idaho Code, be, and the same is hereby amended to read as follows:

67-8908. POWERS. (1) The authority shall have the following powers, which are hereby declared to be necessary to enable the authority to carry out and effectuate the purposes and provisions of this chapter, together with all powers incidental thereto or necessary for the performance thereof:

- (a) To have perpetual succession as a body politic and corporate;
- (b) To adopt bylaws for the regulation of its affairs and the conduct of its business;
- (c) To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;
- (d) To have and to use a corporate seal and to alter the same at pleasure;
- (e) To maintain an office at such place or places as it may designate;
- (f) To make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter;
- (g) To acquire, whether by purchase, gift, grant, bequest, devise, exchange, eminent domain or otherwise, own, hold, improve, lease, transfer, assign, pledge and dispose of, any real or personal property or any interest therein necessary or convenient in connection with any facility or its purposes under this chapter; provided however, that the power of eminent domain is limited to only those purposes and participating utilities as authorized by section 7-701, Idaho Code;
- (h) To acquire, construct, reconstruct, renovate, improve, replace, maintain, repair, manage, operate, lease as lessee or lessor, and regulate any facility; to enter into contracts for any and all of such purposes and for the acquisition and management of fuel supplies, provided such is reasonably necessary for the operation and maintenance of any facility; to enter into contracts and agreements to manage risks associated with the purchase and sale of energy and energy commodities, provided such is reasonably necessary for the operation and maintenance of any facility; and shall designate one (1) or more qualified participating utilities as agent or agents of the authority, as agreed to among the participating utilities, with respect to the foregoing;
- (i) To sell, lease or otherwise provide by contract to one (1) or more participating utilities the services, output or product provided by any or all of the facilities undertaken by the authority upon such terms and conditions as the authority and the participating utilities shall deem proper, and to establish, charge, collect and revise from time to time



such rents, fees and charges for such services, output or product as provided for in this chapter;

(j) To borrow money and to issue bonds for any of the purposes described in this chapter, to issue refunding bonds and to enter into contracts and agreements determined by the authority to be necessary or desirable to manage its debt service and interest costs;

(k) To establish rules and regulations for the use of facilities and to designate a participating utility as its agent, to establish rules and regulations for the use of the facilities undertaken or operated by such participating utility;

(l) To employ or contract for consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment and to fix their compensation;

(m) To enter into contracts, agreements or other transactions with and accept grants and the cooperation of the United States or any agency thereof or any state or any agency or governmental subdivision thereof, in furtherance of the purposes of this chapter including, but not limited to, the development, maintenance, operation, and financing of any facility and to do any and all things necessary in order to avail itself of such aid and cooperation;

(n) To receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied to carry out the purposes of this chapter subject to such conditions upon which such grants and contributions may be made, including, but not limited to, gifts or grants from any department or agency of the United States or any state for any purpose consistent with this chapter;

(o) To assign and pledge all or any part of its revenues and income and to mortgage or otherwise encumber any or all of its facilities and the site or sites thereof, whether then owned or thereafter acquired, for the benefit and security of the holders of bonds issued to finance such facilities or any portion thereof;

(p) To make loans to any participating utility to finance the cost of any facilities in accordance with an agreement between the authority and such participating utility;

(q) To make secured or unsecured loans to a participating utility to refinance obligations and indebtedness incurred for facilities undertaken and completed prior to or after the enactment of this chapter when the authority finds that such financing is in the public interest and either alleviates the financial hardship upon the participating utility or is in connection with other financing by the authority for such participating utility or may be expected to result in a cost-effective delivery of electricity to the consumers served by the participating utility, or any combination thereof;

(r) To charge to and equitably apportion its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter among the participating utilities that have entered into contracts with the authority;

(s) To procure insurance against any loss in connection with its property and other assets in such amounts and from such insurers as it deems desirable and to self-insure against such risks as it shall deem to be reasonable;

(t) To invest any funds not needed for immediate use or disbursement, including any funds held in reserve, in:

(i) Bonds, notes and other obligations of the United States or any agency or instrumentality thereof and other securities secured by such bonds, notes or other obligations;

- (ii) Money market funds which are insured or the assets of which are limited to obligations of the United States or any agency or instrumentality thereof;
- (iii) Time certificates of deposit and savings accounts;
- (iv) Commercial paper which, at the time of its purchase, is rated in the highest category by a nationally recognized rating service;
- (v) Property or securities in which the state treasurer may invest funds in the state treasury pursuant to section 67-1210, Idaho Code; and
- (vi) With respect to any funds representing bond proceeds or amounts pledged to the payment of bonds, such other investments as may be specified in a bond resolution or trust indenture securing bonds of the authority;

(u) To participate in cooperative ventures with any agencies or organizations in order to provide affordable and reliable energy to the residents of the state;

(v) To undertake and finance renewable energy generation projects developed by an independent power producer; and

(w) To finance or refinance the cost of conservation measures as provided in section 67-8926, Idaho Code; and

(x) To do all things necessary and convenient to carry out the purposes of this chapter.

(2) Notwithstanding any other provision of this chapter, the authority shall have no power to:

(a) Acquire the operating property of any investor-owned, private, cooperative, municipal or other utility by the exercise of the power of eminent domain;

(b) Provide financing for the acquisition of the operating property of any such utility by or under threat of eminent domain, in either case unless such utility consents in writing to the acquisition; or

(c) Deliver retail electricity or related retail products or services to any ultimate consumer, whether in violation of the Idaho electric supplier stabilization act or otherwise.

(3) The authority is not a "taxing district," as defined in section 67-3901, Idaho Code, and, for so long as any bonds are outstanding or any contract, agreement or transaction between the authority and a participating utility is in effect, the authority shall not have the power and shall not be authorized to be a debtor under the U.S. bankruptcy code, title 11 U.S.C., or any other bankruptcy, insolvency, moratorium, liquidation, dissolution or wind-down law.

SECTION 2. That Section 67-8909, Idaho Code, be, and the same is hereby amended to read as follows:

67-8909. DEVELOPMENT, ACQUISITION AND CONSTRUCTION OF FACILITIES. (1) The authority will endeavor to achieve efficiencies and economies of scale by pursuing the development of facilities with multiple participating utilities on a joint and cooperative basis and shall, to the fullest extent practicable, offer all potential participating utilities the opportunity to participate in the development of a facility and the electricity, service or product to be provided by the facility.

(2) The authority shall not commence the development or financing for any facility until it shall have entered into contractual arrangements with one (1) or more participating utilities that contain provisions acceptable to both the authority and the participating utility or utilities and which are determined by the authority to provide adequate assurance that all capital, operating and related costs of the facility will be paid by or provided for by one (1) or more participating utilities.

(3) The authority may acquire, construct and own any facility undertaken by it, may cause such facility to be acquired and constructed on its behalf by one (1) or more participating utilities as its agent, may enter into joint ownership arrangements with respect to any facility, and may enter into contractual arrangements with third parties for the acquisition and construction of a facility.

(4) Upon the payment in full of all bonds issued by the authority to finance or refinance the cost of a facility and upon the discharge of all other obligations of the authority with respect to a facility, the authority will convey title to the facility to the participating utility or utilities with respect to such facility, unless a participating utility requests in writing to the authority that it continue to retain title of the facility on behalf of the participating utility. Any such conveyance shall be in proportion to the funds provided or paid by the participating utility in respect of the debt service and operating costs of the facility. The authority may, in its agreements with a participating utility, pledge and assign its interest in a facility to secure its obligation to convey title to the facility as provided in this section. Any such pledge shall be made in the same manner and with the same effect as provided in section 67-8915, Idaho Code, and shall be subordinate only to any pledge or assignment to secure the payment of the bonds issued by the authority to finance the development, acquisition or construction of the facility.

SECTION 3. That Chapter 89, 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 67-8926, Idaho Code, and to read as follows:

67-8926. CONSERVATION MEASURES. (1) For purposes of this section:

(a) "Conservation" means a reduction in electric power consumption as a result of increases in the efficiency of energy use, production or distribution;

(b) "Conservation measure" means an action, property, facility, equipment, improvement, system or measure to promote conservation that provides a conservation resource that is acquired by a participating utility pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. section 839 et seq., including, but not limited to, loans and grants to consumers for insulation, weatherization, increased system efficiency and waste energy recovery by direct application;

(c) "Conservation resource" means actual or planned reductions in electric demand or consumption as a result of one (1) or more conservation measures; and

(d) "Participating utility" means only a federal agency that is a participating utility described in section 67-8903(8)(b), Idaho Code.

(2) The authority may, under such terms and conditions as are approved by the authority:

(a) Issue bonds to finance or refinance the cost of conservation measures, thereby giving rise to conservation resources that are acquired by a participating utility;

(b) Pledge as security for the bonds payments to be made by a participating utility for its acquisition of conservation resources or other payments to be received in connection with the conservation resources or the associated conservation measures; and

(c) Enter into contracts and agreements, including grant agreements, between or among the authority, a participating utility, any of the customers served by the participating utility and other persons or entities in connection with the acquisition of conservation resources by a participating utility, the financing or refinancing of conservation measures, the funding, implementation, management or administration of

conservation measures, or the administration of funds, including the proceeds of bonds and other moneys relating to conservation resources and conservation measures.

(3) Bonds issued pursuant to this section shall be issued in accordance with sections 67-8915 through 67-8918, Idaho Code, and shall be subject to all provisions of this act applicable to bonds issued by the authority; provided that:

(a) Conservation resources and conservation measures shall not be considered to be a facility, other than for purposes of section 67-8903(8), Idaho Code; and

(b) The authority shall not own conservation measures, which may be owned by or on behalf of any other person or entity.

(4) It is hereby determined and declared that all actions taken by the authority pursuant to this section are in furtherance of the purposes of this act, and will promote and achieve conservation of natural resources, efficiencies and economies of scale. This section is supplemental to the other provisions of this act and shall be liberally construed to effectuate the financing of conservation measures by the authority.

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 18, 2015

CHAPTER 60  
(S.B. No. 1026)

AN ACT

RELATING TO DRIVING UNDER THE INFLUENCE; AMENDING SECTION 18-8005, IDAHO CODE, TO REVISE A PROVISION RELATING TO THE SUSPENSION OF DRIVING PRIVILEGES FOLLOWING CONVICTION FOR FELONY DUI AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 18-8005, Idaho Code, be, and the same is hereby amended to read as follows:

18-8005. PENALTIES. (1) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(a), Idaho Code, for the first time is guilty of a misdemeanor; and, except as provided in section 18-8004C, Idaho Code:

(a) May be sentenced to jail for a term not to exceed six (6) months;

(b) May be fined an amount not to exceed one thousand dollars (\$1,000);

(c) Shall be advised by the court in writing at the time of sentencing of the penalties that will be imposed for subsequent violations of the provisions of section 18-8004, Idaho Code, which advice shall be signed by the defendant, and a copy retained by the court and another copy retained by the prosecuting attorney; and

(d) Shall have his driving privileges suspended by the court for a period of thirty (30) days, which shall not be reduced and during which thirty (30) day period absolutely no driving privileges of any kind may be granted. After the thirty (30) day period of absolute suspension of driving privileges has passed, the defendant shall have driving privileges suspended by the court for an additional period of at least sixty (60) days, not to exceed one hundred fifty (150) days, during

which the defendant may request restricted driving privileges which that the court may allow, if the defendant shows by a preponderance of the evidence that driving privileges are necessary for his employment or for family health needs.

(2) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1) (b), Idaho Code, for the first time is guilty of a misdemeanor and subject to:

(a) The provisions of section 18-8005(1) (a), (b) and (c), Idaho Code; and

(b) The provisions of section 49-335, Idaho Code.

(3) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1) (c), Idaho Code, for the first time, is guilty of a misdemeanor and is subject to:

(a) The provisions of section 18-8005(1) (a), (b) and (c), Idaho Code; and

(b) The provisions of section 49-335, Idaho Code.

(4) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1) (a), (b) or (c), Idaho Code, who previously has been found guilty of or has pled guilty to a violation of the provisions of section 18-8004(1) (a), (b) or (c), Idaho Code, or any substantially conforming foreign criminal violation within ten (10) years, notwithstanding the form of the judgment(s) or withheld judgment(s), and except as provided in section 18-8004C, Idaho Code, is guilty of a misdemeanor; and, except as provided in section 18-8004C, Idaho Code:

(a) Shall be sentenced to jail for a mandatory minimum period of not less than ten (10) days, the first forty-eight (48) hours of which must be consecutive, and five (5) days of which must be served in jail, as required by 23 U.S.C. section 164, and may be sentenced to not more than one (1) year, provided however, that in the discretion of the sentencing judge, the judge may authorize the defendant to be assigned to a work detail program within the custody of the county sheriff during the period of incarceration;

(b) May be fined an amount not to exceed two thousand dollars (\$2,000);

(c) Shall be advised by the court in writing at the time of sentencing, of the penalties that will be imposed for subsequent violations of the provisions of section 18-8004, Idaho Code, which advice shall be signed by the defendant, and a copy retained by the court and another copy retained by the prosecuting attorney;

(d) Shall surrender his driver's license or permit to the court;

(e) Shall have his driving privileges suspended by the court for an additional mandatory minimum period of one (1) year after release from confinement, during which one (1) year period absolutely no driving privileges of any kind may be granted; and

(f) Shall, while operating a motor vehicle, be required to drive only a motor vehicle equipped with a functioning ignition interlock system, as provided in section 18-8008, Idaho Code, following the one (1) year mandatory license suspension period.

(5) If the person has pled guilty or was found guilty for the second time within ten (10) years of a violation of the provisions of section 18-8004(1) (b) or (c), Idaho Code, then the provisions of section 49-335, Idaho Code, shall apply.

(6) Except as provided in section 18-8004C, Idaho Code, any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1) (a), (b) or (c), Idaho Code, who previously has been found guilty of or has pled guilty to two (2) or more violations of the provisions of section 18-8004(1) (a), (b) or (c), Idaho Code, or any substantially conforming foreign criminal violation, or any combination thereof, within ten (10) years, notwithstanding the form of the judgment(s) or withheld judgment(s), shall be guilty of a felony, and:

(a) Shall be sentenced to the custody of the state board of correction for not to exceed ten (10) years; provided that notwithstanding the provisions of section 19-2601, Idaho Code, should the court impose any sentence other than incarceration in the state penitentiary, the defendant shall be sentenced to the county jail for a mandatory minimum period of not less than thirty (30) days, the first forty-eight (48) hours of which must be consecutive, and ten (10) days of which must be served in jail, as required by 23 U.S.C. section 164; and further provided that notwithstanding the provisions of section 18-111, Idaho Code, a conviction under this section shall be deemed a felony;

(b) May be fined an amount not to exceed five thousand dollars (\$5,000);

(c) Shall surrender his driver's license or permit to the court;

(d) Shall have his driving privileges suspended by the court for a mandatory minimum period of one (1) year after release from imprisonment, ~~and may have his driving privileges suspended by the court for not to exceed five (5) years after release from imprisonment,~~ during which time he shall have absolutely no driving privileges of any kind, and may have his driving privileges suspended by the court for an additional period not to exceed four (4) years, during which the defendant may request restricted driving privileges that the court may allow if the defendant shows by a preponderance of the evidence that driving privileges are necessary for his employment or for family health needs; and

(e) Shall, while operating a motor vehicle, be required to drive only a motor vehicle equipped with a functioning ignition interlock system, as provided in section 18-8008, Idaho Code, following the mandatory one (1) year license suspension period.

(7) Notwithstanding the provisions of subsections (4) (e) and (6) (d) of this section, any person who is enrolled in and is a participant in good standing in a drug court or mental health court approved by the supreme court drug court and mental health court coordinating committee under the provisions of chapter 56, title 19, Idaho Code, or other similar problem solving court utilizing community-based sentencing alternatives, shall be eligible for restricted noncommercial driving privileges for the purpose of getting to and from work, school or an alcohol treatment program, which may be granted by the presiding judge of the drug court or mental health court or other similar problem solving court, provided that the offender has served a period of absolute suspension of driving privileges of at least forty-five (45) days, that a state approved ignition interlock system is installed, and for repeat offenders it shall be maintained for not less than one (1) year, on each of the motor vehicles owned or operated, or both, by the offender and that the offender has shown proof of financial responsibility as defined and in the amounts specified in section 49-117, Idaho Code, provided that the restricted noncommercial driving privileges may be continued if the offender successfully completes the drug court, mental health court or other similar problem solving court, and that the court may revoke such privileges for failure to comply with the terms of probation or with the terms and conditions of the drug court, mental health court or other similar problem solving court program.

(8) For the purpose of computation of the enhancement period in subsections (4), (6) and (9) of this section, the time that elapses between the date of commission of the offense and the date the defendant pleads guilty or is found guilty for the pending offense shall be excluded. If the determination of guilt against the defendant is reversed upon appeal, the time that elapsed between the date of the commission of the offense and the date the defendant pleads guilty or is found guilty following the appeal shall also be excluded.

(9) Notwithstanding the provisions of subsections (4) and (6) of this section, any person who has pled guilty or has been found guilty of a felony violation of the provisions of section 18-8004, Idaho Code, a felony violation of the provisions of section 18-8004C, Idaho Code, a violation of

the provisions of section 18-8006, Idaho Code, a violation of the provisions of section 18-4006 3.(b), Idaho Code, notwithstanding the form of the judgment(s) or withheld judgment(s) or any substantially conforming foreign criminal felony violation, notwithstanding the form of the judgment(s) or withheld judgment(s), and within fifteen (15) years pleads guilty or is found guilty of a further violation of the provisions of section 18-8004, Idaho Code, shall be guilty of a felony and shall be sentenced pursuant to subsection (6) of this section.

(10) For the purpose of subsections (4), (6) and (9) of this section and the provisions of section 18-8004C, Idaho Code, a substantially conforming foreign criminal violation exists when a person has pled guilty to or has been found guilty of a violation of any federal law or law of another state, or any valid county, city, or town ordinance of another state substantially conforming to the provisions of section 18-8004, Idaho Code. The determination of whether a foreign criminal violation is substantially conforming is a question of law to be determined by the court.

(11) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, shall undergo, at his own expense, (or at county expense through the procedures set forth in chapters 34 and 35, title 31, Idaho Code,) and prior to the sentencing date, an alcohol evaluation by an alcohol evaluation facility approved by the Idaho department of health and welfare; provided however, if the defendant has no prior or pending charges with respect to the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, and the court has the records and information required under subsections (12) (a), (b) and (c) of this section or possesses information from other reliable sources relating to the defendant's use or nonuse of alcohol or drugs which does not give the court any reason to believe that the defendant regularly abuses alcohol or drugs and is in need of treatment, the court may, in its discretion, waive the evaluation with respect to sentencing for a violation of section 18-8004 or 18-8004C(1), Idaho Code, and proceed to sentence the defendant. The court may also, in its discretion, waive the requirement of an alcohol evaluation with respect to a defendant's first violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, and proceed to sentence the defendant if the court has a presentence investigation report, substance abuse assessment, criminogenic risk assessment, or other assessment which evaluates the defendant's degree of alcohol abuse and need for alcohol treatment conducted within twelve (12) months preceding the date of the defendant's sentencing. In the event an alcohol evaluation indicates the need for alcohol treatment, the evaluation shall contain a recommendation by the evaluator as to the most appropriate treatment program, together with the estimated cost thereof, and recommendations for other suitable alternative treatment programs, together with the estimated costs thereof. The person shall request that a copy of the completed evaluation be forwarded to the court. The court shall take the evaluation into consideration in determining an appropriate sentence. If a copy of the completed evaluation has not been provided to the court, the court may proceed to sentence the defendant; however, in such event, it shall be presumed that alcohol treatment is required unless the defendant makes a showing by a preponderance of evidence that treatment is not required. If the defendant has not made a good faith effort to provide the completed copy of the evaluation to the court, the court may consider the failure of the defendant to provide the report as an aggravating circumstance in determining an appropriate sentence. If treatment is ordered, in no event shall the person or facility doing the evaluation be the person or facility that provides the treatment unless this requirement is waived by the sentencing court, with the exception of federally recognized Indian tribes or federal military installations, where diagnosis and treatment are appropriate and available. Nothing herein contained shall preclude the use of funds authorized pursuant to the provisions

of chapter 3, title 39, Idaho Code, for court-ordered alcohol treatment for indigent defendants.

(12) At the time of sentencing, the court shall be provided with the following information:

(a) The results, if administered, of any evidentiary test for alcohol and/or drugs;

(b) A computer or teletype or other acceptable copy of the person's driving record;

(c) Information as to whether the defendant has pled guilty to or been found guilty of violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, or a similar offense within the past five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s); and

(d) The alcohol evaluation required in subsection (11) of this section, if any.

(13) A minor may be prosecuted for a violation of the provisions of section 18-8004 or 18-8004C, Idaho Code, under chapter 5, title 20, Idaho Code. In addition to any other penalty, if a minor pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(a), (b) or (c) or 18-8004C, Idaho Code, he shall have his driving privileges suspended or denied for an additional one (1) year following the end of any period of suspension or revocation existing at the time of the violation, or until he reaches the age of twenty-one (21) years, whichever period is greater. During the period of additional suspension or denial, absolutely no driving privileges shall be allowed.

(14) In the event that the alcohol evaluation required in subsection (11) of this section recommends alcohol treatment, the court shall order the person to complete a treatment program in addition to any other sentence which may be imposed, unless the court determines that alcohol treatment would be inappropriate or undesirable, in which event, the court shall enter findings articulating the reasons for such determination on the record. The court shall order the defendant to complete the preferred treatment program set forth in the evaluation, or a comparable alternative, unless it appears that the defendant cannot reasonably obtain adequate financial resources for such treatment. In that event, the court may order the defendant to complete a less costly alternative set forth in the evaluation, or a comparable program. Such treatment shall, to the greatest extent possible, be at the expense of the defendant. In the event that funding is provided for or on behalf of the defendant by an entity of state government, restitution shall be ordered to such governmental entity in accordance with the restitution procedure for crime victims, as specified under chapter 53, title 19, Idaho Code. Nothing contained herein shall be construed as requiring a court to order that a governmental entity shall provide alcohol treatment at government expense unless otherwise required by law.

(15) Any person who is disqualified, or whose driving privileges have been suspended, revoked or canceled under the provisions of this chapter, shall not be granted restricted driving privileges to operate a commercial motor vehicle.

Approved March 19, 2015



CHAPTER 61  
(S.B. No. 1027)

AN ACT

RELATING TO JUDGES; AMENDING SECTION 1-2005, IDAHO CODE, TO REVISE A PROVISION RELATING TO THE ELIGIBILITY OF A SENIOR JUDGE; AND AMENDING SECTION 1-2221, IDAHO CODE, TO REVISE A PROVISION RELATING TO THE ELIGIBILITY OF A SENIOR JUDGE.

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

SECTION 1. That Section 1-2005, Idaho Code, be, and the same is hereby amended to read as follows:

1-2005. SENIOR JUDGE -- ASSIGNMENT -- DUTIES AND POWERS -- COMPENSATION AND EXPENSES -- QUALIFICATIONS AND OATH. (1) A justice or judge who leaves office or retires from the supreme court, court of appeals or a district court, except a justice or judge retired under the provisions of section 1-2001(4), Idaho Code, may be designated a senior judge of the state of Idaho by the supreme court.

(2) Upon filing with the secretary of state an oath of office as a senior judge as prescribed in subsection (7) of this section, a senior judge is eligible for temporary assignment by the supreme court to a state court as provided in this subsection, whenever the supreme court determines that the assignment is reasonably necessary and will promote the more efficient administration of justice. A senior judge may sit as a district or magistrate judge of the district court of any county or may sit with the supreme court or court of appeals or may perform such other duties pertaining to the judicial department of government as may be requested.

(3) The assignment of a senior judge shall be made by an order which shall designate the court or duties to which the judge is assigned and the duration of the assignment. Promptly after assignment of a senior judge under this section, the supreme court shall cause a certified copy of the order to be sent to the senior judge and another certified copy to the court to which the judge is assigned.

(4) Each senior judge assigned as provided in this section has all the judicial powers and duties, while serving under the assignment, of a regularly qualified judge of the court to which the senior judge is assigned.

(5) A senior judge assigned as provided in this section, other than one performing services required by section 1-2001(2)(b), Idaho Code, shall receive as compensation for each day the senior judge is actually engaged in the performance of duties under the assignment an amount equal to eighty-five percent (85%) of the daily salary of the highest office in which the senior judge served. However, a retired judge shall not receive for services as a senior judge during any fiscal year a sum of money which when added to the amount of any judicial retirement pay received by the senior judge for the year exceeds the current annual salary of the highest office in which the senior judge served; except that this limitation shall not apply if the chief justice of the supreme court determines that extended service by one (1) or more senior judges is required because of extraordinary circumstances, such as a natural disaster or a judge's absence from service due to military service or medical disability. Services by a senior judge under an assignment and receipt of compensation for services shall not reduce or otherwise affect the amount of any retirement pay to which the senior judge otherwise would be entitled. Such additional compensation above the retirement compensation benefits accruing to such senior judge shall be paid from the general fund in accordance with appropriations provided by the legislature.

(6) A senior judge assigned to a court located outside the county in which the senior judge regularly resides shall receive, in addition to any daily compensation, reimbursement for traveling and subsistence expenses necessarily incurred in the performance of duties under the assignment. The expenses shall be paid upon presentation of an itemized statement of the expenses, certified by the senior judge to be correct.

(7) To be eligible for assignment, a senior judge must: maintain a residence within the state; ~~not engage in the practice of law other than as a mediator or arbitrator or similar alternate dispute resolution function; not accept a position in another branch of state government or any political subdivision; not accept a position in the government of the United States or of another state or nation~~ comply with all applicable provisions of the Idaho code of judicial conduct; and take, subscribe and file with the secretary of state, the following oath or affirmation:

"I, . . . . ., do solemnly swear (or affirm, as the case may be) that as a senior judge of the state of Idaho, I will support the Constitution of the United States and the Constitution of the State of Idaho, and that upon hereafter accepting any assignment to serve as a judge of a court of this state I will faithfully discharge the duties thereof to the best of my ability."

(8) Except as provided in section 1-2001(2)(b), Idaho Code, any period of service rendered by a senior judge shall not in any way be computed for additional retirement benefits, and the state controller shall not receive or deduct any sum for transfer to the judges' retirement fund or to the public employee retirement system of Idaho.

SECTION 2. That Section 1-2221, Idaho Code, be, and the same is hereby amended to read as follows:

1-2221. SENIOR JUDGE -- ASSIGNMENT -- DUTIES AND POWERS -- COMPENSATION AND EXPENSES -- QUALIFICATIONS AND OATH. (1) A magistrate judge who leaves office or retires from the magistrates division of a district court, except a magistrate judge retired under the provisions of section 59-1352, Idaho Code, may be designated a senior judge of the state of Idaho by the supreme court.

(2) Upon filing with the secretary of state an oath of office as a senior judge as prescribed in subsection (7) of this section, a senior judge is eligible for temporary assignment, with the consent of the senior judge, by the supreme court to a state court as provided in this subsection, whenever the supreme court determines that the assignment is reasonably necessary and will promote the more efficient administration of justice. A senior judge may sit as a judge of the district court of any county or may sit with the supreme court or court of appeals or may perform such other duties pertaining to the judicial department of government as may be requested.

(3) The assignment of a senior judge shall be made by an order which shall designate the court or duties to which the senior judge is assigned and the duration of the assignment. Promptly after assignment of a senior judge under this section, the supreme court shall cause a certified copy of the order to be sent to the senior judge and another certified copy to the court to which the senior judge is assigned.

(4) Each senior judge assigned as provided in this section has all the judicial powers and duties, while serving under the assignment, of a regularly qualified judge of the court to which the senior judge is assigned.

(5) A senior judge assigned as provided in this section shall receive as compensation for each day the senior judge is actually engaged in the performance of duties under the assignment an amount equal to eighty-five percent (85%) of the daily salary of an active magistrate judge. However, a retired magistrate judge shall not receive for services as a senior judge during any fiscal year a sum of money which when added to the amount of any ju-

dicial retirement pay received by the senior judge for the year exceeds the current annual salary of an active magistrate judge; except that this limitation shall not apply if the chief justice of the supreme court determines that extended service by one (1) or more senior judges is required because of extraordinary circumstances, such as a natural disaster or a judge's absence from service due to military service or medical disability. Services by a senior judge under an assignment and receipt of compensation for services shall not reduce or otherwise affect the amount of any retirement pay to which the senior judge otherwise would be entitled. Such additional compensation above the retirement compensation benefits accruing to such senior judge shall be paid from the general fund in accordance with appropriations provided by the legislature.

(6) A senior judge assigned to a court located outside the county in which the senior judge regularly resides shall receive, in addition to any daily compensation, reimbursement for traveling and subsistence expenses necessarily incurred in the performance of duties under the assignment. The expenses shall be paid upon presentation of an itemized statement of the expenses, certified by the senior judge to be correct.

(7) To be eligible for assignment, a senior judge must: maintain a residence within the state; ~~not engage in the practice of law other than as a mediator or arbitrator or similar alternate dispute resolution function; not accept a position in another branch of state government or any political subdivision; not accept a position in the government of the United States or of another state or nation~~ comply with all applicable provisions of the Idaho code of judicial conduct; and take, subscribe and file with the secretary of state, the following oath or affirmation:

"I, . . . . ., do solemnly swear (or affirm, as the case may be) that as a senior judge of the state of Idaho, I will support the Constitution of the United States and the Constitution of the State of Idaho, and that upon hereafter accepting any assignment to serve as a senior judge of a court of this state I will faithfully discharge the duties thereof to the best of my ability."

(8) Any period of service rendered by a senior judge shall not in any way be computed for additional retirement benefits, and the state controller shall not receive or deduct any sum for transfer to the public employee retirement system of Idaho.

Approved March 19, 2015

CHAPTER 62  
(S.B. No. 1029)

AN ACT

RELATING TO FRAUDULENT TRANSACTIONS; AMENDING SECTION 18-3125, IDAHO CODE, TO PROVIDE FOR INTENT TO USE TO DEFRAUD WHEN ACQUIRING A FINANCIAL TRANSACTION CARD OR FINANCIAL TRANSACTION CARD NUMBER.

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

SECTION 1. That Section 18-3125, Idaho Code, be, and the same is hereby amended to read as follows:

18-3125. CRIMINAL POSSESSION OF FINANCIAL TRANSACTION CARD, FINANCIAL TRANSACTION NUMBER AND FTC FORGERY DEVICES. It is a felony punishable as provided in subsection (3) of section 18-3128, Idaho Code, for any person:

(1) To acquire an FTC or FTC number from another without the consent of the card holder or the issuer with the intent to use to defraud, or to, with the knowledge that it has been so acquired, receive an FTC or FTC number with

the intent to use to defraud, or to sell, or to transfer the FTC or FTC number to another person with the knowledge that it is to be used to defraud;

(2) To acquire an FTC or FTC number that he knows to have been lost, mislaid, or delivered under a mistake as to the identity or address of the card holder, and to retain possession with the intent to use to defraud or to sell or transfer to another person with the knowledge that it is to be used to defraud;

(3) To, with the intent to defraud, knowingly possess a false, fictitious, counterfeit, revoked, expired or fraudulently obtained FTC or any FTC account number;

(4) To, with the intent to defraud, knowingly obtain or attempt to obtain credit or purchase or attempt to purchase any goods, property or service, by use of any false, fictitious, counterfeit, revoked, expired or fraudulently obtained FTC or FTC account number;

(5) To, with the intent to defraud, knowingly produce to another person or procure, a false, fictitious, counterfeit, revoked, expired or fraudulently obtained FTC or any FTC account number;

(6) To, with the intent to defraud and while making an application for an FTC to an issuer, knowingly make or cause to be made, a false written or oral statement or representation respecting his name, personal identifying information, occupation, financial condition, assets, or to materially undervalue any indebtedness for the purpose of influencing the issuer to issue an FTC.

Approved March 19, 2015

CHAPTER 63  
(H.B. No. 33)

AN ACT

RELATING TO SUBSTANCE ABUSE; REPEALING SECTION 39-303A, IDAHO CODE, RELATING TO REGIONAL ADVISORY COMMITTEES FOR SUBSTANCE ABUSE ISSUES; AND REPEALING SECTION 39-308, IDAHO CODE, RELATING TO CONFIDENTIALITY OF TREATMENT RECORDS.

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

SECTION 1. That Section 39-303A, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 39-308, Idaho Code, be, and the same is hereby repealed.

Approved March 19, 2015

CHAPTER 64  
(H.B. No. 48)

AN ACT

RELATING TO OIL AND GAS; AMENDING SECTION 47-319, IDAHO CODE, TO PROVIDE FOR THE CONFIDENTIALITY OF CERTAIN RECORDS FOR A DESIGNATED PERIOD OF TIME.

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

SECTION 1. 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. (1) 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.

(2) 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 such purposes. In the event of a conflict, the duty to prevent waste is paramount.

(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.

(4) The commission is authorized to appoint, as necessary, committees for the purpose of advising the commission on matters relating to oil and gas.

(5) Without limiting its general authority, the commission shall have the specific authority to require:

(a) Identification of ownership of oil or gas wells, producing leases, tanks, plants, structures, and facilities for the transportation or refining of oil and gas;

(b) 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;

(c) The drilling, casing, operation and plugging of wells in such manner as to prevent: (i) the escape of oil or gas out of one (1) pool into another; (ii) the detrimental intrusion of water into an oil or gas pool that is avoidable by efficient operations; (iii) the pollution of fresh water supplies by oil, gas, or salt water; (iv) blow-outs, cavings, seepages, and fires; and (v) waste as hereinabove defined;

(d) The taking of tests of oil or gas wells;

(e) 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;

(f) 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;

(g) 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;

(h) Metering or other measuring of oil, gas, or product;

(i) That every person who produces oil 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. Provided however, that reports of oil and gas production shall be kept confidential by the commission and shall be exempt from disclosure pursuant to section 9-340D, Idaho Code, for a period of six (6) months from the date of filing the initial production report for a well with the commission, and thereafter all production reports for a well shall be subject to disclosure pursuant to chapter 3, title 9, Idaho Code; and

(j) The filing of reports of plats with the commission that it may prescribe.

(6) 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 to regulate:

(a) 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 and gas;

(b) The shooting and treatment of wells;

(c) The spacing or locating of wells;

(d) 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

(e) The disposal of salt water and oil-field wastes.

(7) The commission is authorized to classify and reclassify pools as oil, gas, or condensate pools, or wells as oil, gas, or condensate wells.

(8) 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.

Approved March 19, 2015

CHAPTER 65  
(H.B. No. 49)

AN ACT

RELATING TO OIL AND GAS; AMENDING SECTION 47-320, IDAHO CODE, TO PROVIDE FOR FEES, TO REVISE FEE PROVISIONS, TO PROVIDE FOR THE DEPOSIT OF FEES IN THE OIL AND GAS CONSERVATION FUND AND TO PROVIDE FOR THE USE OF FEES.

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 -- FEES. (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 as provided by this section.~~ 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). The commission shall collect the following fees, 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 chapter:~~

- (a) Application for a permit to drill a well . . . . . \$2,000
- (b) Application to deepen a well . . . . . 500
- (c) Application to plug and abandon a well, if not completed within one (1) year from issuance of permit to drill a well . . . . . 500
- (d) Application to treat a well, if separate from an application for a permit to drill a well . . . . . 1,000
- (e) Application to construct a pit, if separate from an application for a permit to drill a well . . . . . 1,500
- (f) Application to directionally drill a well, if separate from an application for a permit to drill a well . . . . . 1,000
- (g) Application for a multiple zone completion, if separate from an application for a permit to drill a well . . . . . 1,000
- (h) Application for an exceptional well location, if separate from an application for a permit to drill a well . . . . . 1,300
- (i) Application to change the size or shape of a spacing unit . . . . 1,300
- (j) Application to establish or amend a field-wide spacing order . 1,300
- (k) Application for an integration order . . . . . 1,300
- (l) Application for a unitization order . . . . . 1,300
- (m) Application for a seismic operations permit covering less than twelve (12) miles of a 2D survey . . . . . 800
- (n) Application for a seismic operations permit covering between twelve (12) miles and twenty-four (24) miles of a 2D survey, or up to seventy-two (72) square miles of a 3D survey . . . . . 2,000
- (o) Application for a seismic operations permit covering more than twenty-four (24) miles of a 2D survey, or more than seventy-two (72) square miles of a 3D survey . . . . . 2,500

Approved March 19, 2015

CHAPTER 66  
(H.B. No. 50)

AN ACT

RELATING TO OIL AND GAS; AMENDING SECTION 47-323, IDAHO CODE, TO PROVIDE FOR UNIT OPERATIONS, TO PROVIDE FOR HEARINGS, TO PROVIDE FOR ORDERS, TO PROVIDE FOR FINDINGS, TO PROVIDE FOR THE CONTENT OF APPLICATIONS, TO PROVIDE FOR SPECIFIED CERTIFICATION BY APPLICANTS, TO PROVIDE FOR MEANS OF SERVICE, TO PROVIDE FOR RESPONSES TO APPLICATIONS, TO PROVIDE FOR THE SCHEDULING OF HEARINGS AND NOTICE OF HEARINGS, TO PROVIDE THAT ORDERS FOR UNIT OPERATIONS MUST BE ON JUST AND REASONABLE TERMS AND CONDITIONS, TO PROVIDE THAT ORDERS SHALL INCLUDE PLANS FOR UNIT OPERATIONS, TO PROVIDE FOR CONTENTS OF PLANS, TO PROVIDE THAT ORDERS FOR UNIT OPERATIONS MAY PROVIDE FOR UNIT OPERATIONS OF LESS THAN THE WHOLE OF POOLS UNDER CERTAIN CONDITIONS, TO PROVIDE FOR TERMINATION AND DIS-

SOLUTION OF UNIT OPERATIONS, TO PROVIDE CONDITIONS UNDER WHICH ORDERS FOR UNIT OPERATIONS SHALL BECOME EFFECTIVE, TO PROVIDE FOR AMENDMENT OF ORDERS, TO PROVIDE FOR ORDERS FOR UNIT OPERATIONS OF A POOL OR POOLS OR PARTS THEREOF THAT INCLUDE UNITS CREATED BY PRIOR ORDERS, TO PROVIDE A PROCEDURE RELATING TO ALLOCATION IN SUBSEQUENT ORDERS, TO PROVIDE FOR THE APPROVAL OF ADDITIONS OR EXCLUSIONS IN UNIT AREAS UNDER CERTAIN CONDITIONS, TO PROVIDE CONDITIONS UNDER WHICH ORDERS FOR ADDITIONS OR EXCLUSIONS TO UNIT AREAS SHALL BECOME EFFECTIVE, TO PROVIDE THAT OPERATIONS ARE DEEMED CONDUCTED ON CERTAIN TRACTS BY OWNERS, TO PROVIDE THAT PORTIONS OF UNIT PRODUCTION ALLOCATED TO A SEPARATELY OWNED TRACT WHEN PRODUCED IS DEEMED PRODUCED FROM A WELL DRILLED ON THAT TRACT, TO PROVIDE THAT CERTAIN OPERATIONS SHALL CONSTITUTE FULFILLMENT OF CERTAIN EXPRESSED OR IMPLIED OBLIGATIONS TO A SPECIFIED EXTENT, TO PROVIDE THAT CERTAIN PRODUCTION AND PROCEEDS OF SALE ARE DEEMED THE PROPERTY AND INCOME OF SPECIFIED PERSONS, TO PROVIDE FOR THE DURATION OF FORCE OF DIVISION ORDERS OR OTHER CONTRACTS RELATING TO A SALE OR PURCHASE OF PRODUCTION AND THE APPLICATION THEREOF, TO PROVIDE THAT CERTAIN ORDERS DO NOT RESULT IN TRANSFER OF TITLE, TO PROVIDE THAT CERTAIN PROPERTY IS DEEMED THE PROPERTY OF SPECIFIED PERSONS AND TO PROVIDE THAT THE FORMATION AND OPERATION OF A UNIT UNDER ORDER OF THE OIL AND GAS COMMISSION SHALL NOT BE IN VIOLATION OF CERTAIN LAW.

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

SECTION 1. That Section 47-323, Idaho Code, be, and the same is hereby amended to read as follows:

~~47-323. APPROVAL OF AGREEMENTS BY COMMISSION -- DEFENSE TO LITIGATION~~  
UNIT OPERATIONS. (1) An agreement for the unit or cooperative development or operation of a field, pool, or part thereof, may be submitted to the commission for approval as being in the public interest or reasonably necessary to prevent waste or protect correlative rights. Such approval shall constitute a complete defense to any suit charging violation of any statute of the state relating to trusts and monopolies on account thereof or on account of operations conducted pursuant thereto. The failure to submit such an agreement to the commission for approval shall not for that reason imply or constitute evidence that the agreement or operations conducted pursuant thereto are in violation of laws relating to trusts and monopolies.

(2) The commission, upon its own motion or upon application of an owner, shall conduct a hearing to consider the need for unit operation of an entire pool or portion thereof, to increase ultimate recovery of oil and gas from that pool or portion thereof. The commission shall issue an order requiring unit operation if it finds that:

(a) Unit operation of the pool or portion thereof is reasonably necessary to prevent waste or to protect correlative rights;

(b) Unit operation of the pool or portion thereof is reasonably necessary for maintaining or restoring reservoir pressure, or to implement cycling, water flooding, enhanced recovery, horizontal drilling, de-watering or a combination of these operations or other operations or objectives to be cooperatively pursued with the goal of increasing the ultimate recovery of oil and gas; and

(c) The estimated cost to conduct the unit operation will not exceed the value of the estimated recovery of additional oil and gas resulting from unit operation.

(3) An application for requesting an order providing for the operation as a unit of one (1) or more pools or parts thereof in a field shall contain:

(a) A plat map showing the proposed unit, the existing spacing units, and well(s) within the units;



(b) The names and addresses of all persons owning mineral interests and working interests in the proposed unit;

(c) An affidavit that the applicant, by certified mail, notified all persons owning unleased mineral interests and working interests in the proposed unit at least sixty (60) days prior to filing the application with the commission of the applicant's intention to make the application;

(d) A proposed plan of unit operations for the proposed unit that contains the information in subsection (5) of this section; and

(e) A proposed operating agreement that is consistent with the proposed plan of unit operations.

(4) At the time the application for unit operations is filed with the commission, the applicant shall certify that a copy of the application was served on all unleased mineral interest and working interest owners in the proposed unit. The application may be served by personal delivery or certified U.S. mail, return receipt requested; provided however, if an owner cannot be located, the application may be served by publishing a notice in a newspaper of general circulation reasonably likely to give notice to the owner once a week for two (2) consecutive weeks and mailing the application to the last known address of the owner. The unleased mineral interest and working interest owners shall have twenty-one (21) days from the date of service of the application to file a response to the application with the commission. The commission will schedule a hearing on the application for unit operations and will give notice of the hearing to the applicant and all owners who file a response to the application with the commission.

(5) An order for a unit operation must be upon just and reasonable terms and conditions and shall prescribe a plan for unit operations that include all of the following:

(a) A description of the vertical and horizontal limits of the unit area;

(b) A statement of the nature of the operation contemplated;

(c) A provision for the supervision and conduct of the unit operation that designates an operator of the unit and provides a means to remove the operator and designate a successor operator;

(d) A provision to protect correlative rights, allocating to each separately owned tract in the unit area a just and equitable share of the production that is produced and saved from the unit area, other than production used or unavoidably lost in the conduct of the unit operation;

(e) A provision for credits and charges to adjust among working interest owners in the unit area for their interest in wells, tanks, pumps, machinery, materials and equipment that contribute to the unit operation;

(f) A provision establishing how the costs of unit operation, including capital investments and costs of terminating the unit operation, shall be determined and charged to each working interest owner or the interest of each owner, including a provision establishing how, when and by whom the share of unit production allocated to an owner who does not pay the share of those costs charged to that owner or to the interest of that owner may be sold and the proceeds applied to the payment of that owner's share of those costs, and how accounts will be settled upon termination of the unit;

(g) A provision, if necessary, for carrying or otherwise financing an owner who elects to be carried or otherwise financed, which allows owners who carry or otherwise finance to recover up to three hundred percent (300%) of the unit costs attributed to an owner who elects to be carried or otherwise financed payable out of that owner's share of the production;

(h) A time when the unit operation is to commence and the manner in which, and the circumstances under which, the unit operation is to terminate and the unit is to be dissolved; and

(i) Additional provisions found to be appropriate to carry on the unit operation, to prevent waste and to protect correlative rights.

(6) An order for a unit operation may provide for a unit operation of less than the whole of a pool so long as the unit area is of size and shape reasonably required for that purpose and the conduct thereof will have no significant adverse effect upon other portions of the pool.

(7) The commission, upon its own motion or upon the application of an owner, may for good cause terminate a unit operation and dissolve the unit on just and equitable terms. If not terminated earlier, the unit operation shall terminate upon final cessation of production from the pool or unitized portion thereof, the plugging and abandonment of unit wells and facilities, and reclamation of the surface.

(8) An order requiring a unit operation shall not become effective until the plan for unit operations approved by the commission has been signed and approved in writing by the owners who, under the commission's order, will be required to pay at least fifty-five percent (55%) of the costs of the unit operation, and also signed and approved in writing by the working interest owners of at least fifty-five percent (55%) of the production of the unit operations, and the commission has made a finding in the order that the plan for unit operations has been so approved.

(9) An order providing for unit operation may be amended by an order of the commission in the same manner and subject to the same conditions as an original order providing for the unit operation.

(10) The commission may issue an order for the unit operation of a pool or pools or parts thereof that include a unit created by a prior order of the commission or by voluntary agreement. This subsequent order, in providing for the allocation of the unit's production, must treat first the unit area previously created as a single tract and then allocate, in the same proportions as those specified in the prior order, the portion of the new unit's production allocated to the previous unit among the separately owned tracts included in the previously created unit area.

(11) The commission may approve additions to the unit of portions of a pool not previously included within the unit and may extend the unit area as reasonably necessary to prevent waste or to protect correlative rights. The commission may approve exclusions from the unit area as reasonably necessary to prevent waste or to protect correlative rights. An order adding to or excluding from a unit area must be upon just and reasonable terms.

(a) An order that amends a plan of unit operations and adds an area to a previously established unit shall not become effective until the amended plan of unit operations has been signed and approved in writing by the owners who will be required to pay at least fifty-five percent (55%) of the costs of the unit operation in the area to be added, and also signed and approved in writing by the working interest owners of at least fifty-five percent (55%) of the production of the unit operations, and the commission has made a finding in the order that the plan for unit operations has been so approved.

(b) An order providing for an exclusion from a unit area may not become effective until an amended plan of unit operations excluding an area from the unit has been approved in writing by the owners in the original unit area that are required to pay at least fifty-five percent (55%) of the costs of unit operations, and also approved in writing by the working interest owners in the original unit area required to pay at least fifty-five percent (55%) of the production of the unit operations, and the commission has made a finding in the order that the plan for unit operations has been so approved.

(12) Operations, including the commencement, drilling or operation of a well upon a portion of a unit area, are deemed conducted on each separately owned tract in the unit area by the owner or owners thereof. That portion of a unit's production allocated to a separately owned tract in a unit area, when produced, is deemed produced from a well drilled on that tract. Operations conducted under an order of the commission providing for a unit operation shall constitute fulfillment of expressed or implied obligations of a lease or contract covering lands within the unit area to the extent that compliance with those obligations is not possible without a further order of the commission.

(13) That portion of unit production allocated to a tract and the proceeds of sale for that portion are deemed the property and income of the several persons to whom or to whose credit that portion is allocated or payable under the order providing for unit operation.

(14) A division order or other contract relating to a sale or purchase of production from a separately owned tract or combination of tracts remains in force and applies to oil and gas allocated to the tract until terminated in accordance with provisions of the order providing for unit operation, or in accordance with the terms of such division order or other contract.

(15) Except to the extent that all affected parties agree, an order providing for unit operation does not result in a transfer of all or part of a person's title to the oil and gas rights in a tract in the unit area.

(16) Except to the extent that all affected parties agree, all property, whether real or personal, that may be acquired in the conduct of a unit operation hereunder is deemed acquired for the account of the owners within the unit area and is deemed the property of the owners in the proportion that the expenses of the unit operation are charged.

(17) The formation of a unit and the operation of the unit under an order of the commission shall not be in violation of any statute of this state relating to trusts, monopolies, contracts or combinations in the restraint of trade.

Approved March 19, 2015

CHAPTER 67  
(H.B. No. 82)

AN ACT

RELATING TO THE IDAHO STATE POLICE; AMENDING SECTION 67-2901, IDAHO CODE, TO AUTHORIZE THE IDAHO STATE POLICE TO CLOSE OR RESTRICT USE OF A HIGHWAY OR ROAD FOR PUBLIC SAFETY AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-2901, Idaho Code, be, and the same is hereby amended to read as follows:

67-2901. IDAHO STATE POLICE CREATED -- DIRECTOR -- DIVISIONS -- POWERS AND DUTIES -- FAILURE OF PEACE OFFICERS TO OBEY ORDERS, MISDEMEANOR -- DEPUTIES -- COMPENSATION AND POWERS. (1) There is hereby created the Idaho state police. The Idaho state police 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 governor, with the advice and consent of the senate, shall appoint a director of the Idaho state police who shall serve at the pleasure of the governor. The director shall receive such salary as fixed by the governor.

(3) The Idaho state police shall be composed of such divisions as may be established by law and other 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 state police. The director shall appoint, subject to the approval of the governor, an administrator for each division within the state police.

(4) The director shall exercise all of the powers and duties necessary to carry out the proper administration of the state police, and may delegate duties to employees and officers of the state police.

(5) The Idaho state police shall have power to:

(a) Enforce all of the penal and regulatory laws of the state, to preserve order, and exercise any and all powers, duties and authority of any sheriff or other peace officer anywhere in the state of Idaho, in the same manner and with like authority as the sheriffs of the counties; said department may employ from time to time, to carry out any of the provisions of this subsection, such deputies or special deputies as may be deemed, by the governor of the state of Idaho, necessary to carry out these duties and powers, and deputies shall have power to deputize other persons as deputies when necessary; said department may call into the police service of the state any and all peace officers of the state, of any city, or of any county, and may deputize private citizens, when deemed necessary by the governor of the state, to preserve order and enforce law in any extraordinary emergency when the governor shall have declared, by order in writing, the existence of such extraordinary emergency; the governor shall designate by order such peace officers or private persons as are to be called into the service of the state, and when such peace officers or deputized citizens are so called into the police service of the state such officers shall act under the direction of the director of the state police in such manner as may be directed and ordered by the governor; failure on the part of any such peace officer of the state, or person so deputized, to so act and obey such orders shall constitute a misdemeanor; the governor shall fix the compensation of such deputies;

(b) Prevent and detect crime and apprehend criminals and maintain order;

(c) Require all persons using the highways in the state to do so carefully, safely, and with the exercise of care for the persons, property and safety of others;

(d) Safeguard and protect the surface and other physical portions of the state highways and enforce any laws for highway safety;

(e) Enforce federal statutes and regulations relating to motor carrier safety and hazardous materials for interstate carriers;

(f) Enforce Idaho statutes and rules of the Idaho state police applicable to motor carriers;

(g) Enforce all of the laws of the state enacted for the identification, inspection and transportation of livestock and all laws of the state designed to prevent the theft of livestock;

(h) Regulate traffic on all highways and roads in the state, including the authority to temporarily close or restrict the use of any highway or road whenever the closure or restriction of the use is deemed necessary for the safety of the public;

(i) Perform all of the duties and exercise all of the powers of peace officers vested in the director of the Idaho state police;

(j) Execute and serve any warrant of arrest or search warrant issued by proper authority of the state, according to the tenor thereof, in any part of the state;

(k) Arrest without warrant, any person committing or attempting to commit in their presence or view a breach of the peace or any other violation of any of the laws of the state;

(1) Members of the Idaho state police shall be subject to the call of the governor and are empowered to cooperate with any other department or authority of the state, with counties and municipalities, or any locality in detecting crime, apprehending criminals and preserving law and order throughout the state; but the Idaho state police shall not be used as a posse in any municipality, except when ordered by the governor to do so; provided nothing herein contained shall be construed to vest direction or control over any sheriff, policeman, marshal or constable in the Idaho state police or any employer or officer thereof;

(m) Each member of the Idaho state police shall take and subscribe to an oath of office to support the constitution and laws of the United States and the state of Idaho, and to honestly and faithfully perform the duties imposed upon him under the provisions of the laws of Idaho as a member of the Idaho state police. The oath shall be filed with the director.

(6) The director shall operate and supervise a forensic laboratory which will provide to state and local agencies having responsibility for enforcement of the penal laws of this state assistance in the collection, preservation and analysis of evidence in criminal cases. Idaho state police forensic services resources including, but not limited to, equipment, instrumentation, facilities and supplies may be used only by authorized employees or approved subcontractors of Idaho state police forensic services.

(7) The director shall provide security and protection for the governor and the governor's immediate family to the extent and in the manner the governor and the director deem adequate and appropriate.

(8) At the written direction of the governor or the director, the director shall provide security and protection for the lieutenant governor and the lieutenant governor's immediate family to the extent and in the manner the lieutenant governor and the director deem adequate and appropriate.

(9) The director shall provide security and protection for both houses of the legislature while in session as in the opinion of the speaker of the house of representatives and the president pro tempore of the senate and the director deem necessary.

(10) The director shall provide security and protection for the supreme court and the court of appeals while they are in session, and at their places of work, as the chief justice and the director deem necessary.

(11) The director may award to an officer, upon retirement, that officer's badge, duty weapon and handcuffs, providing that a committee of three (3) of the officer's peers certifies to the director that the retiring officer has served meritoriously for a minimum of fifteen (15) years and should therefore be so honored.

(12) The director, within the limits of any appropriation made available for such purposes, shall for such Idaho state police:

(a) Establish such ranks, grades and positions as shall appear advisable and designate the authority and responsibility in each such rank, grade and position;

(b) Appoint such personnel to such rank, grade and position as are deemed by him to be necessary for the efficient operation and administration of the Idaho state police, and only those applicants shall be appointed or promoted who best meet the prescribed standards and prerequisites; provided however, that all employees shall be selected in the manner provided for in chapter 53, title 67, Idaho Code, and shall be probationers and on probation for a period of one (1) year from the date of appointment;

(c) Formulate and place in effect such rules for the Idaho state police as from time to time appear to him advisable;

(d) Prescribe by official order the uniform and equipment of the employees in the Idaho state police;

(e) Station employees in such localities as he shall deem advisable for the enforcement of the laws of the state;

(f) Have purchased, or otherwise acquired, by the purchasing agent of the state, motor vehicle equipment and all other equipment and commodities deemed by him essential for the efficient performance of the duties of the Idaho state police and purchase and install approved mechanical devices and equipment for the rapid transmission and broadcasting of information relative to crime, apprehension of criminals and the administration of the business of the Idaho state police.

(13) (a) The director shall issue to every eligible police officer member of the Idaho state police, as defined in section 59-1303(3), Idaho Code, and pursuant to the contract provided for by the personnel group insurance administrator in the department of administration, a term group life insurance certificate in the face amount of fifty thousand dollars (\$50,000) on the life of such members. Said insurance certificate shall set forth the name or names of such beneficiary or beneficiaries as the insured may name or designate.

(b) Any eligible person entering the employ of the Idaho state police as an active police officer after the effective date of this act shall be insured as other members of the state police immediately upon taking the oath of office.

(c) Every member of the Idaho state police, upon termination of active duty or permanent release, may surrender said certificate to the head of the state police, or, at the person's option, may convert the insurance in accordance with the provisions of the contract, and no further premiums shall be paid on said policy by the state of Idaho.

(d) The director is hereby directed to hereafter include in the budget of the Idaho state police an amount sufficient to pay the annual costs accruing with respect to policies of insurance purchased under the provisions of this chapter.

(e) The premiums on the insurance herein provided for are to be paid one-half (1/2) by the employee and one-half (1/2) by the state. The director is hereby authorized to make a monthly deduction on the payroll of the amount due from each employee under this chapter.

(14) Nothing in this section shall affect the duties of the sheriff as described in section 31-2202, Idaho Code, or the primary duty, described in section 31-2227, Idaho Code, of the sheriff and prosecuting attorney of each of the several counties to enforce all the penal provisions of any and all statutes of this state.

Approved March 19, 2015

CHAPTER 68  
(H.B. No. 110)

AN ACT

RELATING TO EDUCATION; AMENDING CHAPTER 16, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1630, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT, TO PROVIDE THAT THE DEPARTMENT OF EDUCATION SHALL PERFORM CERTAIN ACTIVITIES TO MOVE IDAHO TOWARD A MASTERY-BASED EDUCATION SYSTEM, TO PROVIDE FUNDING FOR MASTERY-BASED EDUCATION ACTIVITIES, TO PROVIDE REPORTING REQUIREMENTS AND TO DEFINE TERMS; AND AMENDING SECTION 33-1002, IDAHO CODE, TO PROVIDE FOR MASTERY-BASED EDUCATION IN STATE EDUCATIONAL SUPPORT FUNDS.

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

SECTION 1. That Chapter 16, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1630, Idaho Code, and to read as follows:

33-1630. MASTERY-BASED EDUCATION. (1) The legislature finds that moving toward a mastery-based model of education where students progress as they demonstrate mastery of a subject or grade level is in the best interest of Idaho students. The legislature further finds that moving from the current time-based system with a mastery-based model will allow for more personalized and differentiated learning; create a focus on explicit, measurable, transferable learning objectives that empower students; and emphasize competencies that include application and knowledge along with skill development.

(2) The state department of education shall perform the following activities to move Idaho toward a mastery-based education system:

(a) Conduct a statewide awareness campaign to promote understanding and interest in mastery-based education for teachers, administrators, parents, students, business leaders and policymakers;

(b) Establish a committee of educators to identify roadblocks and possible solutions in implementing mastery-based education and develop recommendations for the incubator process; and

(c) Facilitate the planning and development of an incubator process and assessments of local education agencies to identify the initial cohort of twenty (20) local education agencies to serve as incubators in fiscal year 2017.

(3) The cost of activities provided for in this section shall be paid by the state department of education from moneys appropriated for this program in the educational support program budget as provided for in section 33-1002, Idaho Code.

(4) Not later than January 31 of each year, the state department of education shall report annually to the state board of education and the education committees of the senate and house of representatives regarding the progress toward implementing mastery-based education.

(5) For purposes of this section:

(a) "Incubator process" means a process where districts and charter schools that are willing and ready to start moving toward a mastery-based education system would be identified through site assessments and would form an initial cohort of incubators for mastery-based education. The incubators would receive support for staff professional development, stakeholder education and ongoing assessment and coaching. These incubators would provide data and best practices for continued implementation of mastery-based education.

(b) "Mastery-based education system" means an education system where student progress is based upon a student's demonstration of mastery of competencies and content, not seat time or the age or grade level of the student.

SECTION 2. That Section 33-1002, Idaho Code, be, and the same is hereby amended to read as follows:

33-1002. EDUCATIONAL SUPPORT PROGRAM. The educational support program is calculated as follows:

(1) State Educational Support Funds. Add the state appropriation, including the moneys available in the public school income fund, together with all miscellaneous revenues to determine the total state funds.

(2) From the total state funds subtract the following amounts needed for state support of special programs provided by a school district:

(a) Pupil tuition-equivalency allowances as provided in section 33-1002B, Idaho Code;

- (b) Transportation support program as provided in section 33-1006, Idaho Code;
- (c) Feasibility studies allowance as provided in section 33-1007A, Idaho Code;
- (d) The approved costs for border district allowance, provided in section 33-1403, Idaho Code, as determined by the state superintendent of public instruction;
- (e) The approved costs for exceptional child approved contract allowance, provided in subsection 2. of section 33-2004, Idaho Code, as determined by the state superintendent of public instruction;
- (f) Certain expectant and delivered mothers allowance as provided in section 33-2006, Idaho Code;
- (g) Salary-based apportionment calculated as provided in sections 33-1004 through 33-1004F, Idaho Code;
- (h) Unemployment insurance benefit payments according to the provisions of section 72-1349A, Idaho Code;
- (i) For expenditure as provided by the public school technology program;
- (j) For employee severance payments as provided in section 33-521, Idaho Code;
- (k) For distributions to the Idaho digital learning academy as provided in section 33-1020, Idaho Code;
- (l) For charter school facilities funds and reimbursements paid pursuant to section 33-5208(5), Idaho Code;
- (m) For an online course portal as provided for in section 33-1024, Idaho Code;
- (n) For advanced opportunities as provided for in section 33-1626, Idaho Code;
- (o) For the "8 in 6 Program" as provided for in section 33-1628, Idaho Code;
- (p) For additional math and science courses for high school students as provided in section 33-1021, Idaho Code;
- (q) For leadership premiums as provided in section 33-1004J, Idaho Code;
- (r) For the support of provisions that provide a safe environment conducive to student learning and maintain classroom discipline, an allocation of \$300 per support unit; and
- (s) Any additional amounts as required by statute to effect administrative adjustments or as specifically required by the provisions of any bill of appropriation; and
- (t) For mastery-based education as provided for in section 33-1630, Idaho Code;

to secure the total educational support distribution funds.

(3) Average Daily Attendance. The total state average daily attendance shall be the sum of the average daily attendance of all of the school districts of the state. The state board of education shall establish rules setting forth the procedure to determine average daily attendance and the time for, and method of, submission of such report. Average daily attendance calculation shall be carried out to the nearest hundredth. Computation of average daily attendance shall also be governed by the provisions of section 33-1003A, Idaho Code.

(4) Support Units. The total state support units shall be determined by using the tables set out hereafter called computation of kindergarten support units, computation of elementary support units, computation of secondary support units, computation of exceptional education support units, and computation of alternative school secondary support units. The sum of all of the total support units of all school districts of the state shall be the total state support units.



COMPUTATION OF KINDERGARTEN SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Units Allowed
41 or more....	40.....	1 or more as computed
31 - 40.99 ADA....	-.....	1
26 - 30.99 ADA....	-.....	.85
21 - 25.99 ADA....	-.....	.75
16 - 20.99 ADA....	-.....	.6
8 - 15.99 ADA....	-.....	.5
1 - 7.99 ADA....	-.....	count as elementary

COMPUTATION OF ELEMENTARY SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
300 or more ADA.....	.....	.. 15
	..23...grades 4,5 & 6....	
	..22...grades 1,2 & 3....1994-95	
	..21...grades 1,2 & 3....1995-96	
	..20...grades 1,2 & 3....1996-97 and each year thereafter.	
160 to 299.99 ADA...	20.....	8.4
110 to 159.99 ADA...	19.....	6.8
71.1 to 109.99 ADA...	16.....	4.7
51.7 to 71.0 ADA...	15.....	4.0
33.6 to 51.6 ADA...	13.....	2.8
16.6 to 33.5 ADA...	12.....	1.4
1.0 to 16.5 ADA...	n/a.....	1.0

COMPUTATION OF SECONDARY SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
750 or more....	18.5.....	47
400 - 749.99 ADA....	16.....	28
300 - 399.99 ADA....	14.5.....	22
200 - 299.99 ADA....	13.5.....	17
100 - 199.99 ADA....	12.....	9
99.99 or fewer	Units allowed as follows:	
Grades 7-12	.....	8
Grades 9-12	.....	6
Grades 7- 9	.....	1 per 14 ADA
Grades 7- 8	.....	1 per 16 ADA

## COMPUTATION OF EXCEPTIONAL EDUCATION SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
14 or more....	14.5 .....	1 or more as computed
12 - 13.99....	- .....	1
8 - 11.99....	- .....	.75
4 - 7.99....	- .....	.5
1 - 3.99....	- .....	.25

## COMPUTATION OF ALTERNATIVE SCHOOL SECONDARY SUPPORT UNITS

Pupils in Attendance	Attendance Divisor	Minimum Units Allowed
12 or more.....	12 .....	1 or more as computed

In applying these tables to any given separate attendance unit, no school district shall receive less total money than it would receive if it had a lesser average daily attendance in such separate attendance unit. In applying the kindergarten table to a kindergarten program of less days than a full school year, the support unit allowance shall be in ratio to the number of days of a full school year. The attendance of students attending an alternative secondary school in a school district reporting less than one hundred (100) secondary students in average daily attendance shall not be assigned to the alternative secondary table if the student is from a school district reporting less than one hundred (100) secondary students in average daily attendance, but shall instead be assigned to the secondary table of the school district in which they are attending the alternative secondary school, unless the alternative secondary school in question serves students from multiple districts reporting less than one hundred (100) secondary students in average daily attendance. The tables for exceptional education and alternative school secondary support units shall be applicable only for programs approved by the state department of education following rules established by the state board of education. Moneys generated from computation of support units for alternative schools shall be utilized for alternative school programs. School district administrative and facility costs may be included as part of the alternative school expenditures.

(5) State Distribution Factor per Support Unit. Divide educational support program distribution funds, after subtracting the amounts necessary to pay the obligations specified in subsection (2) of this section, by the total state support units to secure the state distribution factor per support unit.

(6) District Support Units. The number of support units for each school district in the state shall be determined as follows:

(a) (i) Divide the actual average daily attendance, excluding students approved for inclusion in the exceptional child educational program, for the administrative schools and each of the separate schools and attendance units by the appropriate divisor from the tables of support units in this section, then add the quotients to obtain the district's support units allowance for regular students, kindergarten through grade 12 including alternative school secondary students. Calculations in application of this subsection shall be carried out to the nearest hundredth.

(ii) Divide the combined totals of the average daily attendance of all preschool, kindergarten, elementary, secondary, juvenile

detention center students and students with disabilities approved for inclusion in the exceptional child program of the district by the appropriate divisor from the table for computation of exceptional education support units to obtain the number of support units allowed for the district's approved exceptional child program. Calculations for this subsection shall be carried out to the nearest hundredth when more than one (1) unit is allowed.

(iii) The total number of support units of the district shall be the sum of the total support units for regular students, subsection (6) (a) (i) of this section, and the support units allowance for the approved exceptional child program, subsection (6) (a) (ii) of this section.

(b) Total District Allowance Educational Program. Multiply the district's total number of support units, carried out to the nearest hundredth, by the state distribution factor per support unit and to this product add the approved amount of programs of the district provided in subsection (2) of this section to secure the district's total allowance for the educational support program.

(c) District Share. The district's share of state apportionment is the amount of the total district allowance, subsection (6) (b) of this section.

(d) Adjustment of District Share. The contract salary of every noncertificated teacher shall be subtracted from the district's share as calculated from the provisions of subsection (6) (c) of this section.

(7) Property Tax Computation Ratio. In order to receive state funds pursuant to this section a charter district shall utilize a school maintenance and operation property tax computation ratio for the purpose of calculating its maintenance and operation levy, that is no greater than that which it utilized in tax year 1994, less four-tenths of one percent (.4%). As used herein, the term "property tax computation ratio" shall mean a ratio determined by dividing the district's certified property tax maintenance and operation budget by the actual or adjusted market value for assessment purposes as such values existed on December 31, 1993. Such maintenance and operation levy shall be based on the property tax computation ratio multiplied by the actual or adjusted market value for assessment purposes as such values existed on December 31 of the prior calendar year.

Approved March 19, 2015

CHAPTER 69  
(H.B. No. 122)

AN ACT

RELATING TO SCHOOL DISTRICTS; AMENDING SECTION 33-320, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN PLAN AND TO REVISE PROVISIONS RELATING TO SUCH PLAN.

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

SECTION 1. That Section 33-320, Idaho Code, be, and the same is hereby amended to read as follows:

33-320. ~~STRATEGIC PLANNING~~ CONTINUOUS IMPROVEMENT PLANS AND TRAINING. (1) Each school district and public charter school in Idaho shall ~~develop and maintain a strategic~~ develop and maintain an annual plan that is part of a continuous focuses on improving the student performance of the district or public charter school.

- (2) (a) The board of trustees and the superintendent shall collaborate on the plan and engage students, parents, educators and the community as appropriate. The board of directors and the administrator of a public charter school shall collaborate on the plan and engage students, parents, educators and the community as appropriate.
- (b) The strategic annual continuous improvement plan shall:
- (i) Be data driven, specifically in student outcomes, and shall include, but not be limited to, analyses of demographic data, student achievement and growth data, graduation rates, and college and career readiness;
  - (ii) Set clear and measurable targets based on student outcomes;
  - (iii) Include a clearly developed and articulated vision and mission; and
  - (iv) Include key indicators for monitoring performance; and
  - (v) Include a report of progress toward the previous year's improvement goals.
- (c) ~~For the 2014-2015 school year, the strategic plan shall be adopted on or before September 1. The strategic annual continuous improvement plan must be reviewed and updated annually no later than August~~ October 1 every each year thereafter.
- (d) The board of trustees or the board of directors shall continuously monitor progress toward the goals by utilizing relevant data to measure growth. The progress shall be included in evaluations of the district superintendent or administrator of a public charter school.
- (3) The strategic plan must be made available to the public and shall be posted on the school district or charter school website.
- (4) Of the moneys appropriated in the public schools educational support program, up to ~~two six thousand six hundred dollars (\$2,06,600)~~ shall be distributed to each school district and public charter school to be expended for training purposes for district superintendents and boards of trustees, public charter school administrators and boards of directors. Funds shall be distributed on a reimbursement basis based on a process prescribed by the superintendent of public instruction. Qualified training shall include training for continuous improvement processes and planning, strategic planning, finance, superintendent evaluations, public charter administrator evaluations, ethics and governance.
- (5) The state board of education shall be granted rulemaking authority to establish appropriate procedures, qualifications and guidelines for qualified training providers and shall prepare a list of qualified training providers within the state of Idaho.

Approved March 19, 2015

CHAPTER 70  
(H.B. No. 133)

AN ACT

RELATING TO INCOME TAX; AMENDING SECTION 63-3022H, IDAHO CODE, TO ESTABLISH ADDITIONAL PROVISIONS RELATING TO A CAPITAL GAINS DEDUCTION.

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

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

63-3022H. DEDUCTION OF CAPITAL GAINS. (1) If an individual taxpayer reports capital gain net income in determining taxable income, eighty percent (80%) in taxable year 2001 and sixty percent (60%) in taxable years

thereafter of the capital gain net income from the sale or exchange of qualified property shall be a deduction in determining Idaho taxable income.

(2) The deduction provided in this section is limited to the amount of the capital gain net income from all property included in taxable income. Gains treated as ordinary income by the Internal Revenue Code do not qualify for the deduction allowed in this section. The deduction otherwise allowable under this section shall be reduced by the amount of any federal capital gains deduction relating to such property, but not below zero.

(3) Property held by an estate, trust, S corporation, partnership, limited liability company or an individual is "qualified property" under this section if the property had an Idaho situs at the time of sale and is:

(a) Real property held at least twelve (12) months;

(b) Tangible personal property used in Idaho for at least twelve (12) months by a revenue-producing enterprise;

(c) Cattle or horses held for breeding, draft, dairy or sporting purposes for at least twenty-four (24) months if more than one-half (1/2) of the taxpayer's gross income (as defined in section 61(a) of the Internal Revenue Code) for the taxable year is from farming or ranching operations in Idaho;

(d) Breeding livestock other than cattle or horses held at least twelve (12) months if more than one-half (1/2) of the taxpayer's gross income (as defined in section 61(a) of the Internal Revenue Code) for the taxable year is from farming or ranching operations in Idaho;

(e) Timber grown in Idaho and held at least twenty-four (24) months;

(f) In determining the period for which property subject to this section has been held by a taxpayer, the provisions of section 1223 of the Internal Revenue Code shall apply, except that the holding period shall not include the holding period of property given up in an exchange, when such property would not have constituted qualified property under this section without regard to meeting the holding period nor shall the holding period include any time period in which the property subject to this section was held by a corporation other than an S corporation;

(g) When cattle, horses or breeding livestock were held and then sold by a pass-through entity, the requirement in paragraphs (c) and (d) of this subsection, that more than one-half (1/2) of the taxpayer's gross income for the taxable year be from farming or ranching operations in Idaho, shall apply to the activities of the pass-through entity. If more than one-half (1/2) of the pass-through entity's gross income for the taxable year was from farming or ranching operations in Idaho, and the other requirements of this section are satisfied, then the capital gains deduction is available to the individual owners of an interest in the pass-through entity on their distributive share of the proceeds from the cattle, horse or breeding livestock sale.

(4) As used in this section "revenue-producing enterprise" means:

(a) The production, assembly, fabrication, manufacture, or processing of any agricultural, mineral or manufactured product;

(b) The storage, warehousing, distribution, or sale at wholesale of any products of agriculture, mining or manufacturing;

(c) The feeding of livestock at a feedlot;

(d) The operation of laboratories or other facilities for scientific, agricultural, animal husbandry, or industrial research, development, or testing.

(5) As used in this section the term "real property" means land and other tangible property permanently upon or affixed to the land.

CHAPTER 71  
(S.B. No. 1007)

AN ACT

RELATING TO IDAHO REAL ESTATE LICENSE LAW; AMENDING SECTION 54-2019, IDAHO CODE, TO PROVIDE AN ADDITIONAL BASIS UPON WHICH THE IDAHO REAL ESTATE COMMISSION MAY DENY ANY LICENSE APPLICATION AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-2019, Idaho Code, be, and the same is hereby amended to read as follows:

54-2019. DENIAL OF LICENSE APPLICATIONS. (1) The commission may deny any license application, including an application for license renewal, upon the commission's determination of any of the following:

- (a) The applicant does not possess all of the qualifications required for the license sought;
- (b) The applicant employed fraud, deception, misrepresentation, misstatement or omission or any unlawful means in applying for a license or taking the exam;
- (c) Within the ~~five-year~~ five (5) year period immediately preceding the application, the applicant committed any act for which a real estate license in Idaho may be revoked or suspended;
- (d) Payment of any licensing fee by check that is returned by the banking institution due to insufficient funds, unless the reason for not paying on the check is the fault of the banking institution, or by any other type of insufficient payment; or
- (e) There exist any other specific facts about the applicant that cause the commission to reasonably conclude that granting the applicant's request for Idaho licensure is not in the best interests of the citizens of the state of Idaho.

(2) Where any of the facts referenced above warranting denial of the application are not discovered or determined by the commission until after the license has been issued, such facts may be grounds for the inactivation, expiration, termination, suspension or revocation of the license.

Approved March 20, 2015

CHAPTER 72  
(S.B. No. 1008)

AN ACT

RELATING TO REAL ESTATE; AMENDING SECTION 54-2013, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE RELATING TO A FEE.

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, title 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 (\$250) 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, 2015

CHAPTER 73  
(S.B. No. 1010)

AN ACT

RELATING TO IDAHO REAL ESTATE LICENSE LAW; AMENDING SECTION 54-2054, IDAHO CODE, TO REVISE PROVISIONS RELATING TO FEE-SPLITTING WITH UNLICENSED PERSONS AND TO REVISE THE REQUIREMENT THAT ALL FEES MUST BE PAID THROUGH A BROKER.

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

SECTION 1. That Section 54-2054, Idaho Code, be, and the same is hereby amended to read as follows:

54-2054. COMPENSATION, COMMISSIONS AND FEES -- PROHIBITED CONDUCT. (1) Court action for fee collection. No person engaged in the business or acting in the capacity of real estate broker or salesperson in Idaho shall bring or maintain any action in the courts for the collection of a fee, commission or other compensation for the performance of any acts requiring a real estate license as provided in section 54-2002, Idaho Code, without alleging and proving that such person was an actively licensed broker or salesperson in Idaho at the time the alleged cause of action arose.

(2) Fee-splitting with unlicensed persons prohibited. Unless otherwise allowed by statute or rule, a real estate broker, associate broker or salesperson licensed in the state of Idaho shall not pay any part or share of a commission, fee or compensation received in the licensee's capacity as such in a regulated real estate transaction to any person who is not actively licensed as a real estate broker in Idaho or in another state or jurisdiction. The Idaho broker making the payment to another licensed person is responsible for verifying the active licensed status of the receiving broker. This section shall not prohibit payment of a part or share of a commission, fee or compensation by the broker to an unlicensed legal business entity, if:

(a) All of whose the entity's shareholders, members or other persons having a similar ownership interest are active real estate licensees; and

(b) An owner licensed under the broker performed the licensed activities for which the payment is made.

An Idaho licensee may pay any part or share of a commission, fee or compensation received, directly to the buyer or seller in the real estate transaction. However, no commission, fee or compensation may be split with any party to the transaction in a manner which would directly or indirectly create a double contract, as defined in this chapter, or which would otherwise mislead any broker, lender, title company or government agency involved in the transaction regarding the source of funds used to complete the real estate transaction or regarding the financial resources or obligations of the buyer.

(3) Finder's fees prohibited. Any offer of monetary value, by an Idaho licensee, to any person who is not licensed in Idaho or any state or jurisdiction, made for the purpose of inducing such unlicensed person to secure prospects to buy, sell, option, or otherwise dispose of an interest in real property shall be considered to be splitting fees with an unlicensed person, and is prohibited.

(4) Interference with real estate brokerage agreement prohibited. It shall be unlawful for any person, licensed or unlicensed, to interfere with the contractual relationship between a broker and a client. Communicating a company's relocation policy or benefits to a transferring employee or consumer shall not be considered a violation of this subsection so long as the



communication does not involve advice or encouragement on how to terminate or amend an existing contractual relationship between a broker and client.

(5) Double contracts prohibited. No licensed broker or salesperson shall use, propose the use of, agree to the use of, or knowingly permit the use of a double contract, as defined in section 54-2004, Idaho Code, in connection with any regulated real estate transaction. Such conduct by a licensee shall be deemed flagrant misconduct and dishonorable and dishonest dealing and shall subject the licensee to disciplinary action by the commission.

(6) Kickbacks and rebates prohibited. No licensed real estate broker or salesperson shall receive a kickback or rebate for directing any transaction to any individual for financing. A licensee shall not receive a kickback or unearned fee for directing any transaction to any lending institution, escrow or title company, as those practices are defined and prohibited by the real estate settlement procedures act. However, a licensee legally receiving any fee or rebate from any person providing direct services to either the buyer or the seller in connection with a regulated real estate transaction is required to disclose the licensee's intent to receive such fee, rebate or compensation in writing to all parties to the transaction prior to closing.

(7) Compensation from more than one party. No licensed real estate broker or salesperson shall charge or accept compensation from more than one (1) party in any one (1) transaction, without first making full disclosure in writing of the broker's intent to do so, to all parties involved in the transaction.

(8) After-the-fact referral fees prohibited. It shall be unlawful for any person to solicit or request a referral fee or similar payment from a licensed Idaho real estate broker or sales associate, for the referral of a buyer or seller in connection with a regulated real estate transaction, unless the person seeking the referral fee has reasonable cause. "Reasonable cause" shall not exist unless:

(a) The person seeking the referral fee has a written contractual relationship with the Idaho real estate broker for a referral fee or similar payment; and

(b) The contractual relationship providing for the referral fee exists at the time the buyer or seller purportedly referred by such person signs a written agreement with the Idaho broker for the listing of the real estate or for representation by the broker, or the buyer signs an offer to purchase the real estate involved in the transaction. It shall be unlawful for any person including, but not limited to, a relocation company or company with a relocation policy or benefits, to directly or indirectly threaten to or actually reduce or withhold promised or expected employee or customer relocation benefits from a buyer or seller in a regulated real estate transaction based upon a broker's participation in payment of a referral fee or other fee.

(9) All fees must be paid through broker. No sales associate shall accept any commission, compensation or fee for the performance of any acts requiring a real estate license from any person except the real estate broker with whom the sales associate is licensed. However, if authorized by the broker, a sales associate may:

(a) Pay all or any portion of the accepted commission, compensation or fee to any other sales associate who is licensed with the same broker; or

(b) Accept payment from an unlicensed entity paid by the broker in accordance with subsection (2) of this section.

A broker may pay a former sales associate for services performed while the sales associate was actively licensed with that broker, regardless of the former sales associate's license status at the time the commission or fee is actually paid.

Approved March 20, 2015

CHAPTER 74  
(S.B. No. 1023)

AN ACT

RELATING TO INSURANCE; AMENDING TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 30, TITLE 41, IDAHO CODE, TO PROVIDE DEFINITIONS, TO PROVIDE FOR INSURER CONDUCT AND TO PROVIDE FOR UNFAIR TRADE PRACTICE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 30, Title 41, Idaho Code, and to read as follows:

CHAPTER 30  
IDAHO UNCLAIMED LIFE INSURANCE BENEFITS ACT

41-3001. DEFINITIONS. As used in this chapter:

(1) "Contract" means an annuity contract. The term "contract" shall not include an annuity used to fund an employment-based retirement plan or program where:

- (a) The insurer does not perform the recordkeeping services; or
- (b) The insurer is not committed by terms of the annuity contract to pay death benefits to the beneficiaries of specific plan participants.

(2) "Death master file" means the United States social security administration's death master file or any other database or service that is at least as comprehensive as the United States social security administration's death master file for determining that a person has reportedly died.

(3) "Death master file match" means a search of the death master file that results in a match of the social security number or the name and date of birth of an insured, annuity owner or retained asset account holder.

(4) "Knowledge of death" means:

- (a) Receipt of an original or valid copy of a certified death certificate; or
- (b) A death master file match validated by the insurer in accordance with section 41-3002, Idaho Code.

(5) "Policy" means any policy or certificate of life insurance that provides a death benefit. The term "policy" shall not include:

- (a) Any policy or certificate of life insurance that provides a death benefit under an employee benefit plan that is:
  - (i) Subject to the employee retirement income security act of 1974, 29 U.S.C. section 1002, as periodically amended; or
  - (ii) Under any federal employee benefit program;
- (b) Any policy or certificate of life insurance that is used to fund a preneed funeral contract or prearrangement;
- (c) Any policy or certificate of credit life or accidental death insurance; or
- (d) Any policy issued to a group master policyholder for which the insurer does not provide recordkeeping services.

(6) "Recordkeeping services" means those circumstances under which the insurer has agreed with a group policy or contract customer to be responsible for obtaining, maintaining and administering in its own or its agents' systems information about each individual insured under an insured's group insurance contract, or a line of coverage thereunder, at least the following information:

- (a) Social security number or name and date of birth;
- (b) Beneficiary designation information;
- (c) Coverage eligibility;
- (d) Benefit amount; and
- (e) Premium payment status.

(7) "Retained asset account" means any mechanism whereby the settlement of proceeds payable under a policy or contract is accomplished by the insurer or an entity acting on behalf of the insurer depositing the proceeds into an account with check or draft writing privileges, where those proceeds are retained by the insurer or its agent, pursuant to a supplementary contract not involving annuity benefits other than death benefits.

41-3002. INSURER CONDUCT. (1) An insurer shall perform a comparison of its insureds' in-force policies, contracts and retained asset accounts against a death master file, on at least a semiannual basis, by using the full death master file once and thereafter using the death master file update files for future comparisons to identify potential matches of its insureds. For those potential matches identified as a result of death master file match, the insurer shall:

- (a) Within ninety (90) days of a death master file match:

- (i) Complete a good faith effort, which shall be documented by the insurer, to confirm the death of the insured, annuity owner or retained asset account holder against other available records and information;
- (ii) Determine whether benefits are due in accordance with the applicable policy or contract; and
- (iii) If benefits are due in accordance with the applicable policy or contract, use good faith efforts, which shall be documented by the insurer, to locate the beneficiary or beneficiaries and provide the appropriate claims forms or instructions to the beneficiary or beneficiaries to make a claim including the need to provide an official death certificate, if applicable under the policy or contract.

(b) With respect to group life insurance, insurers are required to confirm the possible death of an insured when the insurers maintain at least the following information of those covered under a policy or certificate:

- (i) Social security number or name and date of birth;
- (ii) Beneficiary designation information;
- (iii) Coverage eligibility;
- (iv) Benefit amount; and
- (v) Premium payment status.

(c) Every insurer shall implement procedures to account for:

- (i) Common nicknames, initials used in lieu of a first or middle name, use of a middle name, compound first and middle names and interchanged first and middle names;
- (ii) Compound last names, maiden or married names and hyphens, and blank spaces or apostrophes in last names;
- (iii) Transposition of the month and date portions of the date of birth; and
- (iv) Incomplete social security number.

(d) To the extent permitted by law, the insurer may disclose minimum necessary personal information about the insured or beneficiary to

a person who the insurer reasonably believes may be able to assist the insurer locate the beneficiary or a person otherwise entitled to payment of the claims proceeds.

(2) An insurer or its service provider shall not charge any beneficiary or other authorized representative for any fees or costs associated with a death master file search or verification of a death master file match conducted pursuant to this section.

(3) The benefits from a policy, contract or a retained asset account, plus any applicable accrued contractual interest shall first be payable to the designated beneficiaries or owners and in the event such beneficiaries or owners cannot be found shall escheat to the state as unclaimed property pursuant to section 14-507, Idaho Code. Interest payable under section 41-1337, Idaho Code, shall not be payable as unclaimed property under section 14-507, Idaho Code.

(4) An insurer shall notify the unclaimed property administrator upon the expiration of the statutory time period for escheat that:

(a) A policy or contract beneficiary or retained asset account holder has not submitted a claim with the insurer; and

(b) The insurer has complied with subsection (1) (a) of this section and has been unable, after good faith efforts documented by the insurer, to contact the retained asset account holder, beneficiary or beneficiaries.

(5) Upon such notice, an insurer shall immediately submit the unclaimed policy or contract benefits or unclaimed retained asset accounts, plus any applicable accrued interest, to the unclaimed property administrator.

41-3003. UNFAIR TRADE PRACTICE. Failure to meet any requirement of this act with such frequency as to constitute a general business practice is a violation of chapter 13, title 41, Idaho Code. Nothing contained in this section shall be construed to create or imply a private cause of action for a violation of this section.

SECTION 2. This act shall be in full force and effect on and after July 1, 2016.

Approved March 20, 2015

CHAPTER 75  
(S.B. No. 1034)

AN ACT

RELATING TO ESCAPE OF PRISONERS; AMENDING SECTION 18-2505, IDAHO CODE, TO PROVIDE FOR PERSONS WHO HAVE REACHED EIGHTEEN YEARS OF AGE AND ESCAPE OR ATTEMPT TO ESCAPE FROM A JUVENILE FACILITY; AND AMENDING SECTION 18-2506, IDAHO CODE, TO PROVIDE FOR PERSONS WHO HAVE REACHED EIGHTEEN YEARS OF AGE AND ESCAPE OR ATTEMPT TO ESCAPE FROM A JUVENILE FACILITY.

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

SECTION 1. That Section 18-2505, Idaho Code, be, and the same is hereby amended to read as follows:

18-2505. ESCAPE BY ONE CHARGED WITH, CONVICTED OF, OR ON PROBATION FOR A FELONY -- ESCAPE BY A JUVENILE FROM CUSTODY. (1) Every prisoner charged with, convicted of, or on probation for a felony who is confined in any correctional facility, as defined in section 18-101A, Idaho Code, including any private correctional facility, or who while outside the walls of such correctional facility in the proper custody of any officer or person, or while in any factory, farm or other place without the walls of such correctional facility, who escapes or attempts to escape from such officer or person, or from such correctional facility, or from such factory, farm or other place without the walls of such correctional facility, shall be guilty of a felony, and upon conviction thereof, any such second term of imprisonment shall commence at the time he would otherwise have been discharged. Escape shall be deemed to include abandonment of a job site or work assignment without the permission of an employment supervisor or officer. Escape includes the intentional act of leaving the area of restriction set forth in a court order admitting a person to bail or release on a person's own recognizance with electronic or global positioning system tracking or monitoring, or the area of restriction set forth in a sentencing order, except for leaving the area of restriction for the purpose of obtaining emergency medical care. A person may not be charged with the crime of escape for leaving the aforementioned area of restriction unless the person was notified in writing by the court at the time of setting of bail, release or sentencing of the consequences of violating this section by intentionally leaving the area of restriction.

(2) Any person who is charged with, found to have committed, adjudicated for or is on probation for an offense which would be a felony if committed by an adult, and who is confined in a juvenile detention facility or other secure or nonsecure facility for juveniles and who escapes or attempts to escape from the facility or from the lawful custody of any officer or person shall be subject to proceedings under chapter 5, title 20, Idaho Code, for an offense which would be a felony if committed by an adult. If the juvenile is or has been proceeded against as an adult, pursuant to section 20-508 or 20-509, Idaho Code, or was eighteen (18) years of age or older at the time of the escape or attempted escape, the person shall be guilty of a felony for a violation of this section and shall be subject to adult criminal proceedings.

SECTION 2. That Section 18-2506, Idaho Code, be, and the same is hereby amended to read as follows:

18-2506. ESCAPE BY ONE CHARGED WITH OR CONVICTED OF A MISDEMEANOR -- ESCAPE BY A JUVENILE FROM CUSTODY.

(1) (a) Every prisoner charged with or convicted of a misdemeanor who is confined in any county jail or other place or who is engaged in any county work outside of such jail or other place, or who is in the lawful custody of any officer or person, who escapes or attempts to escape therefrom, is guilty of a misdemeanor. Escape includes the intentional act of leaving the area of restriction set forth in a court order admitting a person to bail or release on a person's own recognizance with electronic or global positioning system tracking or monitoring, or the area of restriction set forth in a sentencing order, except for leaving the area of restriction for the purpose of obtaining emergency medical care. A person may not be charged with the crime of escape for leaving the aforementioned area of restriction unless the person was notified in writing by the court at the time of setting of bail, release or sentencing of the consequences of violating this section by intentionally leaving the area of restriction.

(b) In cases involving escape or attempted escape by use of threat, intimidation, force, violence, injury to person or property other than that of the prisoner, or wherein the escape or attempted escape was perpetrated by use or possession of any weapon, tool, instrument or other substance, the prisoner shall be guilty of a felony.

(2) Any person who is charged with, found to have committed, adjudicated for or is on probation for an offense which would be a misdemeanor if committed by an adult, and who is confined in a juvenile detention facility or other secure or nonsecure facility for juveniles and who escapes or attempts to escape from the facility or from the lawful custody of an officer or person, shall be subject to proceedings under the provisions of chapter 5, title 20, Idaho Code, for an act which would be a misdemeanor if committed by an adult, or, if the escape or attempted escape was undertaken as provided in subsection (1) (b) of this section, for an offense which would be a felony if committed by an adult. If the juvenile is or has been proceeded against as an adult, pursuant to section 20-508 or 20-509, Idaho Code, or was eighteen (18) years of age or older at the time of the escape or attempted escape, the person shall be guilty of a misdemeanor, or if subsection (1) (b) of this section applies, of a felony and, in either case, shall be subject to adult criminal proceedings.

Approved March 20, 2015

CHAPTER 76  
(S.B. No. 1051)

AN ACT

RELATING TO INFORMAL PROBATE AND APPOINTMENT PROCEEDINGS; AMENDING SECTION 15-3-304, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE UNAVAILABILITY OF INFORMAL PROBATE IN CERTAIN CASES AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 15-3-304, Idaho Code, be, and the same is hereby amended to read as follows:

15-3-304. INFORMAL PROBATE -- UNAVAILABLE IN CERTAIN CASES. Applications for informal probate which relate to one (1) or more of a known series of testamentary instruments (other than a wills and one (1) or more codicils thereto), the latest of which does not expressly revoke the earlier, shall be declined.

Approved March 20, 2015

CHAPTER 77  
(S.B. No. 1052)

AN ACT

RELATING TO SPENDTHRIFT TRUSTS; AMENDING SECTION 15-7-502, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 15-7-502, Idaho Code, be, and the same is hereby amended to read as follows:

15-7-502. SPENDTHRIFT TRUSTS. (1) A settlor may provide in the terms of the trust that the interest of a beneficiary in the income or in the principal or in both may not be voluntarily or involuntarily transferred before payment or delivery of the interest to the beneficiary by the trustee.

(2) A declaration in a trust instrument that the interest of a beneficiary shall be held subject to a "spendthrift trust" is sufficient to restrain voluntary or involuntary alienation of the interest by a beneficiary to the maximum extent permitted under this section.

(3) Validity of a restraint on transfer in a trust document shall not require specific reference to or identical verbiage set forth in subsection (1) or (2) of this section.

(4) If a person is both a settlor and beneficiary of the same trust, a provision restraining the voluntary or involuntary transfer of the settlor's beneficial interest in such trust does not prevent the settlor's creditors from satisfying claims from the settlor's interest in the trust estate that relates to the portion of the trust that was contributed by the settlor. For the purposes of this subsection ~~(4)~~, however, a settlor shall not be considered to be a beneficiary of an irrevocable trust created by the settlor and taxed for federal income tax purposes pursuant to the grantor trust rules of the Internal Revenue Code, sections 671 through 679, inclusive, if the settlor's only beneficial interest in such trust consists of the right to receive a distribution from such trust in an amount equal to or less than the amount of the federal and state income tax liability incurred by the settlor as a result of such trust being characterized as a grantor trust pursuant to the aforementioned grantor trust rules.

(5) A beneficiary of a trust shall not be considered a settlor of a trust merely because of a lapse, waiver or release of:

(a) A power described in subsection (6) of this section; or

(b) The beneficiary's right to withdraw a part of the trust property to the extent that the value of the property affected by the lapse, waiver or release in any calendar year does not exceed the greater of the amount specified in:

(i) Section 2041(b)(2) or 2514(e) of the Internal Revenue Code of 1986, as amended; or

(ii) Section 2503(b) of the Internal Revenue Code of 1986, as amended.

(6) A beneficiary of a trust shall not be considered a settlor, to have made a voluntary or involuntary transfer of the beneficiary's interest in a trust, or to have the power to make a voluntary or involuntary transfer of the beneficiary's interest in the trust, merely because the beneficiary, in any capacity including, but not limited to, as a trustee, holds or exercises:

(a) A presently exercisable power to:

(i) Consume, invade, appropriate or distribute property to or for the benefit of the beneficiary, if the power is either exercisable only on consent of another person holding an interest adverse to the beneficiary's interest or limited by an ascertainable standing standard including, but not limited to, health, education, support or maintenance of the beneficiary; or

(ii) Exercise a limited power of appointment, as defined in the Internal Revenue Code of 1986, as amended, including, but not limited to, the power to appoint any property of the trust to or for the benefit of a person other than the beneficiary, a creditor of the beneficiary, the beneficiary's estate, or a creditor of the beneficiary's estate;

(b) A testamentary power of appointment; or

(c) A presently exercisable right described in subsection (5)(b) of this section.

CHAPTER 78  
(S.B. No. 1057)

AN ACT

RELATING TO IRRIGATION DISTRICTS; AMENDING SECTION 43-303, IDAHO CODE, TO PROVIDE FOR ALTERNATIVE MEETING LOCATIONS.

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

SECTION 1. That Section 43-303, Idaho Code, be, and the same is hereby amended to read as follows:

43-303. MEETINGS OF BOARD. The board of directors shall hold a regular monthly meeting in their office, or in any other location the board deems more convenient and suitable within the boundary of the district, on the first Tuesday in every month or such date each month as it shall fix by resolution and such special meetings as may be required for the proper transaction of business.

All special meetings shall be ordered by the president or a majority of the board, the order must be entered of record and the secretary must give each member not joining in the order five (5) days' notice of such special meetings. The order must specify the business to be transacted at such special meeting and none other than that specified shall be transacted: provided, that whenever all members of the board are present, however called, the same shall be deemed a legal meeting and any lawful business may be transacted.

All meetings of the board must be public, and a majority shall constitute a quorum for the transaction of business; but on all questions requiring a vote there shall be a concurrence of at least a majority of the members of the board. All records of the board shall be open to the inspection of any elector during business hours.

Approved March 20, 2015

CHAPTER 79  
(S.B. No. 1058)

AN ACT

RELATING TO IRRIGATION DISTRICTS; AMENDING SECTION 43-707A, IDAHO CODE, TO REMOVE CERTAIN REFERENCES TO BANK DRAFTS AND CHECKS, TO PROVIDE FOR ACCEPTANCE OF ADDITIONAL METHODS OF PERSONAL OR OTHER NONGUARANTEED FORMS OF PAYMENT RELATING TO ASSESSMENTS, TO PROVIDE FOR ENTRY OF THE ASSESSMENT NUMBER ON THE TRANSACTION RECEIPT, TO PROVIDE FOR CERTAIN RECEIPTS UPON REQUEST, TO PROVIDE FOR INVALIDITY OF A RECEIPT IF PAYMENT IS REFUSED BY A FINANCIAL INSTITUTION, TO REVISE PROVISIONS RELATING TO THE REDEMPTION OF FAILED PAYMENTS, TO PROVIDE FOR ADDITIONAL TRANSACTION, PROCESSING AND CONVENIENCE FEES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 43-707A, Idaho Code, be, and the same is hereby amended to read as follows:

43-707A. ACCEPTANCE OF ~~BANK DRAFTS OR CHECKS~~ PERSONAL OR OTHER NONGUARANTEED FORMS OF PAYMENT. (1) Notwithstanding any other provisions of title 43, Idaho Code, irrigation district treasurers may accept personal



or other nonguaranteed forms of bank payment including, but not limited to, drafts, ~~or~~ checks, or credit or debit cards if:

(1a) ~~†~~The remitter identifies by legal description or assessment number the parcel for which the payment is tendered.

(2b) ~~†~~The amount for which the draft ~~or~~ check personal or other nonguaranteed form of payment is presented is the exact amount of the assessment due, including, where a delinquency exists and a tax deed has not been issued, penalties, interest and county redemption fees.

(2) The following procedures shall be followed in processing payments by bank drafts ~~or~~ checks personal or other nonguaranteed forms of payment:

(a) The assessment number of the identified parcel shall be entered on the draft ~~or~~ check transaction receipt.

(b) The treasurer shall, upon request, prepare the current tax receipt or redemption certificate or both, and deliver them to the remitter. Such receipts shall be invalid, and shall so state, if payment of the draft ~~or~~ check is refused by the bank, financial institution or other entity on which it is drawn. Any drafts ~~or~~ checks personal or other nonguaranteed forms of payment upon which payment has been ~~is~~ refused will be noted in the records of the treasurer and notice of nonpayment shall be delivered to the county recorder. The notation and notice of nonpayment shall be sufficient reversal of any entries made upon the books of the district treasurer and upon the lien records of the county recorder.

(c) Notice shall be sent to the remitter that payment has not been received, that the receipts and releases are therefore invalid and withdrawn, and that the draft ~~or~~ check failed payment can be redeemed by payment with United States currency or a guaranteed bank draft or money order in the amount of the original draft ~~or~~ check payment plus the additional interest accrued, plus a repetition of the county filing fees, and plus a handling charge not to exceed twenty-five dollars (\$25.00).

(d) Remitters choosing to pay assessments by personal or other nonguaranteed forms of payment may be responsible for any additional transaction, processing or convenience fees incurred by the irrigation district.

(23) Full compliance with the procedures enumerated in this section shall exempt the treasurer from any personal liability for the acceptance of bank drafts ~~or~~ checks personal or other nonguaranteed forms of payment.

Approved March 20, 2015

CHAPTER 80  
(S.B. No. 1099)

AN ACT

RELATING TO IRRIGATION AND DRAINAGE; AMENDING SECTION 42-1301, IDAHO CODE, TO REVISE CONDITIONS UNDER WHICH PARTIES CONSTITUTE A LATERAL WATER USERS' ASSOCIATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 42-1303, IDAHO CODE, TO PROVIDE THAT THE OPERATION, IMPROVEMENT, REPAIR AND MAINTENANCE OF CERTAIN LATERALS AND DITCHES SHALL BE UNDER THE DIRECTION OF THE DIRECTORS OF THE LATERAL WATER USERS' ASSOCIATION, TO REVISE PROVISIONS RELATING TO THE EXAMINATION OF LATERALS AND DITCHES AND PREPARATION OF ESTIMATES OF CERTAIN TOTAL COSTS AND TO REVISE PROVISIONS RELATING TO ASSESSMENT OF WATER USERS; AMENDING CHAPTER 13, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1311, IDAHO CODE, TO PROVIDE THAT CERTAIN ASSESSMENTS SHALL BE A LIEN UPON CERTAIN LANDS OF A WATER USER, TO PROVIDE FOR THE RECORDING AND COLLECTION OF LIENS, TO PROVIDE FOR THE DURATION OF LIEN AND TO PROVIDE FOR THE PRIORITY

OF CERTAIN LIENS; AMENDING CHAPTER 13, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1312, IDAHO CODE, TO PROVIDE A PROCEDURE FOR WITHDRAWAL FROM A LATERAL WATER USERS' ASSOCIATION AND TO PROVIDE THAT WITHDRAWAL SHALL NOT AFFECT CERTAIN LIENS; AND AMENDING CHAPTER 13, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1313, IDAHO CODE, TO DEFINE A TERM.

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

SECTION 1. That Section 42-1301, Idaho Code, be, and the same is hereby amended to read as follows:

42-1301. ORGANIZATION -- OFFICERS -- RULES. ~~Where~~ When three (3) or more parties ~~take each own or possess and control land with appurtenant water rights which each are entitled to receive from the same point or points of delivery in a canal or reservoir, at or from the same point or points of diversion from waters of the state,~~ to be conveyed to their respective premises for any distance through a the same lateral or distributing ditch or laterals or distributing ditches that are not operated and maintained by an irrigation district, canal company or other water delivery organization, such parties shall be members of and shall constitute a water users' association known as "Lateral Water Users' Association of Lateral or Laterals." Such water users' association may meet and organize at any time after thirty (30) days after this chapter shall take effect, and shall meet annually thereafter between January ~~first~~ 1 and the last Monday in March of each year, at the call of the secretary of such association, said secretary to give ten (10) days' notice by mail of such annual meeting; provided that if for any reason the secretary should fail to call a meeting, then the annual meeting of such association shall be held on the last Monday in March of each year. At such annual meetings each water user shall be entitled to one (1) vote in person, for each inch and a fractional vote for each fraction of an inch of water which such water user is entitled to receive from such laterals, and a corporation shall vote by one (1) of its officers designated by it. Such association shall organize by the election of a chairman, vice-chairman and a secretary-treasurer, which officers shall also constitute the board of directors of such association, and shall hold office for one (1) year and until their successors are elected. Such association at the annual meeting shall also elect a manager of said lateral or laterals to be known as "lateral manager" for the succeeding season and shall fix the compensation of said manager, and of all officers. Such association may adopt such rules and regulations for the management of said lateral or laterals or distributing ditch or ditches and the delivery of water therefrom as they deem best, and may, by majority vote, if it be deemed for the best interests of the association, combine one (1) or more laterals and abandon laterals not in use, and do any and all things not in conflict with the provisions of this chapter or the laws of this state wherein the best interests of the association will be furthered.

SECTION 2. That Section 42-1303, Idaho Code, be, and the same is hereby amended to read as follows:

42-1303. LATERAL DITCHES -- REPAIRS, IMPROVEMENTS, AND MAINTENANCE -- ASSESSMENT OF COSTS. ~~Immediately after~~ The operation, improvement, repair and maintenance of any such lateral or distributing ditch shall be under the direction of the directors of the association. Following the association's annual meeting, of any such association the association's directors thereof and the lateral manager shall make an examination of examine the lateral or laterals or distributing ditch or ditches, and make prepare an estimate as of the total cost to the cost of the necessary repairs and improvements thereon, operate, repair, improve and the maintenance thereof for maintain the lateral or laterals or ditch or ditches to properly deliver water to the wa-

~~ter users' lands during the succeeding season, including the compensation of officers and lateral manager. and sSuch total cost and charges shall be assessed pro rata to each water user from said lateral, either (1) in the following manner, if agricultural land in proportion to the water which the owner quantity of water the water user is entitled to receive from such lateral or ditch, and if bears to the total quantity of water which all association water users are entitled to receive therefrom, or (2) if the water user's land consists of a lot or lots within any a city or village, then the assessment may be made upon the basis of each lot, the same to be uniform upon lots of the same size. The improvement, repair and maintenance of any such lateral or distributing ditch shall be under the direction of the directors of the association.~~

SECTION 3. That Chapter 13, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-1311, Idaho Code, and to read as follows:

42-1311. AMOUNT AND LIEN OF ASSESSMENTS. The amount assessed against each water user, together with any penalties and interest, shall be a lien upon the water user's land that is entitled to receive water from the point or points of delivery in the canal or reservoir, or from the point or points of diversion from waters of the state, that supplies the association's lateral or ditch. The lien shall be recorded and collected in accordance with subsections (2) through (5) of section 45-810, Idaho Code, governing homeowner's association liens, except that the lien may be continued in force for a period of time not to exceed three (3) years and may be extended not to exceed three (3) additional years. The lien provided for in this section shall have priority according to its date of recordation, except as to other liens described in titles 42 and 43, Idaho Code.

SECTION 4. That Chapter 13, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-1312, Idaho Code, and to read as follows:

42-1312. WITHDRAWAL FROM LATERAL WATER USERS' ASSOCIATION. A water user may withdraw from the association by providing written notice and proof that the water user's land is no longer entitled to receive water from the point or points of delivery in the canal or reservoir, or from the point or points of diversion from waters of the state, that supplies the association's lateral or ditch. Withdrawal shall not affect any lien recorded against the water user's land pursuant to section 42-1311, Idaho Code, prior to withdrawal.

SECTION 5. That Chapter 13, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-1313, Idaho Code, and to read as follows:

42-1313. WATER USER DEFINED. As used in this chapter, "water user" means each person or entity that is a member of a lateral water users' association because they own or possess and control land that is entitled to receive water from the point or points of delivery in the canal or reservoir, or from the point or points of diversion from waters of the state, that supplies the association's lateral or ditch.

Approved March 20, 2015

CHAPTER 81  
(S.B. No. 1097)

AN ACT

RELATING TO PUPIL TRANSPORTATION; REPEALING SECTION 33-1006A, IDAHO CODE,  
RELATING TO PUPIL TRANSPORTATION AUDITS.

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

SECTION 1. That Section 33-1006A, Idaho Code, be, and the same is hereby repealed.

Approved March 23, 2015

CHAPTER 82  
(S.B. No. 1100)

AN ACT

RELATING TO WATER; AMENDING SECTION 42-605, IDAHO CODE, TO PROVIDE THAT UNDER SPECIFIED CONDITIONS A WATERMASTER MAY ACQUIRE, HOLD AND DISPOSE OF REAL AND PERSONAL PROPERTY, EQUIPMENT AND FACILITIES FOR THE PROPER ADMINISTRATION OF THE WATER DISTRICT AND ENHANCEMENT OF WATER SUPPLIES AND TO PROVIDE THAT UNDER SPECIFIED CONDITIONS A WATERMASTER MAY DEVELOP, COORDINATE OR PROVIDE FOR CERTAIN WEATHER MODIFICATION PROJECTS; AND AMENDING SECTION 42-612, IDAHO CODE, TO PROVIDE THAT IF SPECIFIED FUNDS ARE NOT SUFFICIENT TO COVER EXPENSES IN IMPLEMENTING CERTAIN RESOLUTIONS, SUCH EXPENSES SHALL COME FROM ASSESSMENTS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 42-605, Idaho Code, be, and the same is hereby amended to read as follows:

42-605. DISTRICT MEETINGS -- WATERMASTER AND ASSISTANTS -- ELECTION -- REMOVAL -- OATH AND BOND -- ADVISORY COMMITTEE. (1) There shall be held on the first Monday in March in each year, and, except as provided in subsection (2) of this section, commencing at two o'clock P.M., a meeting of all persons owning or having the use of a water right, in the waters of the stream or water supply comprising such district, which right has been adjudicated or decreed by the court or is represented by valid permit or license issued by the department of water resources.

(2) Such meeting shall be held at some place within the water district, or at some nearby location convenient to a majority of those entitled to vote thereat, which place shall be designated by the director of the department of water resources. The director shall, at least twenty-one (21) days prior to the meeting date, send notification by regular mail to all persons, companies or corporations known by the director to hold rights to the use of the waters of such district, which right has been adjudicated or decreed by the court or is represented by valid permit or license issued by the department of water resources, of the time, date, location and purpose of the annual meeting. At any annual meeting the water users may vote to waive the requirement for notice by mail and provide for notice to be given for future meetings by publication of the time, date, location and purpose of the meeting in a newspaper or newspapers in general circulation in the district. Published notice shall be made once per week for two (2) consecutive weeks with the sec-

and notice appearing at least fourteen (14) and not more than thirty (30) days prior to the meeting. In water districts whose area includes land in more than four (4) counties the annual meeting shall commence at ten o'clock A.M. instead of two o'clock P.M.: provided, that the water users of any water district may, by resolution adopted at an annual meeting or at a special meeting properly called for that purpose, change the time of day when the meeting shall commence or change the date for annual meetings in subsequent years to any day except Saturday and Sunday between the second Monday of January and the third Monday in March or change both the time and the date, in which case the director of the department of water resources shall send notification at least twenty-one (21) days prior to said meeting date. At an annual meeting the water users may adopt resolutions to assure or improve the distribution of the waters of the district within state law, and may provide that such resolutions shall continue from year to year.

(3) At the meeting of the water users of a district there shall be elected a watermaster for such water district, who may be authorized to employ such other regular assistants as the water users shall deem necessary, and who, upon appointment by the director of the department of water resources, shall be responsible for distribution of water within said water district. Notwithstanding any personnel classification assigned to the watermaster and assistants pursuant to the provisions of chapter 53, title 67, Idaho Code, the water users shall, prior to the election of such watermaster and approval of the employment of assistants, fix the compensation to be paid them during the time actually engaged in the performance of their duties.

(4) Voting shall be by majority vote of the water users present at the meeting unless one (1) or more water users requests voting using the procedure which follows in this subsection. In such case the meeting chairman shall appoint a credentials committee to determine the number of votes each water user present is authorized to cast. If requested, each person present, owning or having the use for the ensuing season of any water right in the stream or water supply comprising such water district, which right has been adjudicated or decreed by the court or is represented by valid permit or license issued by the department of water resources, shall be entitled to a number of votes equal to the average annual dollar amount and any fraction thereof assessed for that person's qualifying water right for the previous five (5) years, or such lesser number of years as the right has been assessed. If a right has not previously been assessed, a person present, owning or having the use of the right for the ensuing season shall be entitled to a number of votes equal to the dollar amount and any fraction thereof which the right would have been assessed had it existed and been reasonably used when water was available under the priority of the right during the previous season.

(5) At such meeting the water users shall choose a meeting chairman and meeting secretary and shall determine the manner and method of electing the watermaster. The water users shall, at the annual meeting, provide for the water district treasurer functions in accordance with section 42-619, Idaho Code. Within five (5) days after such meeting the meeting chairman and meeting secretary shall forward a certified copy of the minutes of such meeting to the department of water resources. The meeting chairman, or the meeting secretary, if the meeting chairman is not present, from the immediately preceding annual meeting shall call the meeting to order and preside over the election of officers for the meeting.

(6) At such meeting the water users may choose an advisory committee to be composed of members selected as may be determined at the meeting, which committee shall serve as advisors to the director and the watermaster in matters pertaining to the distribution of water within the district. The advisory committee may be authorized to carry out policies as set forth in resolutions duly adopted by the water users at the annual meeting or at a special meeting. The advisory committee may also serve as the local committee to fa-

cilitate the rental of stored water if appointed by the water resource board for such purpose under the provisions of section 42-1765, Idaho Code.

(7) A corporation or a water delivery organization, including, but not limited to a corporation, a water company, an irrigation district, an irrigation company or a canal company, shall be considered a person for the purpose of this section and shall cast its vote by someone to be designated by the corporation.

(8) Should said meeting not be held, or should said watermaster not be elected or the watermaster's compensation not be fixed as above provided, then the director of the department of water resources is authorized to appoint a watermaster and fix the watermaster's compensation.

(9) The director of the department of water resources may remove any watermaster whenever such watermaster fails to perform the watermaster's duty, upon complaint in that respect being made to the director in writing, by one (1) person owning or having the right to the use of a water right in such district, which right has been adjudicated or decreed by the court or is represented by valid permit or license issued by the department of water resources provided, that upon investigation the director, after a hearing with the other water users of said district, which shall be held in the district or at some location convenient to the water users of the district, finds such charge to be true, and the director may appoint a successor for the unexpired term.

(10) Before entering upon the duties of the watermaster's office, said watermaster shall take and subscribe to an oath before some officer authorized by the laws of the state to administer oaths, to faithfully perform the duties of the watermaster's office, as provided in section 42-607, Idaho Code, and shall file that oath with the department of water resources. Upon appointment by the director of the department of water resources, the actions taken by a watermaster in fulfillment of the duties of his office are covered by the state group surety bond as provided by sections 59-801 through 59-804, Idaho Code. A duly appointed watermaster that is reelected in consecutive years shall not be required to take and file additional oaths with the department of water resources for each consecutive year the watermaster is reelected. If a duly elected or appointed watermaster resigns, dies or is physically unable to perform his duties during the remainder of the elected or appointed watermaster term of service, then the director of the department of water resources is authorized to appoint a successor for the unexpired term as provided in paragraphs (a) and (b) of this subsection.

(a) If a water district advisory committee has been chosen as provided in subsection (6) of this section, the water district advisory committee shall meet to either nominate a successor watermaster or request a special meeting as provided in subsection (11) of this section to elect a new watermaster. Upon receipt of a nomination from a majority of the members of the water district advisory committee, the director of the department of water resources is authorized to appoint the nominated successor watermaster for the unexpired term.

(b) If a water district advisory committee has not been chosen, the director of the department of water resources is authorized to appoint a temporary successor watermaster. The temporary appointment extends through the unexpired term unless a special meeting is requested as provided in subsection (11) of this section and water users elect a new watermaster.

(11) The director shall call a special meeting of the water users of a district upon receipt of a written request for such meeting from a majority of the members of the advisory committee for a district, a written request from water users representing thirty percent (30%) or more of the votes cast at the last regular annual meeting, a written request from the watermaster or on the director's own motion if the director determines a meeting is necessary to address matters that cannot be delayed until the next regular annual meeting. Notice of the time, place and purpose of the special meeting shall be given by the director in the manner provided in subsection (2) of this section, provided however, that a special meeting notice shall be sent at least fourteen (14) days prior to the meeting date.

(12) The water users may, by resolution, authorize the watermaster to acquire, hold and dispose of such real and personal property, equipment and facilities in the name of the water district as necessary for the proper distribution of water, administration of the water district and enhancement of water supplies, and shall provide that all such real and personal property shall remain in the custody of the watermaster and the watermaster's successor.

(13) The water users may, by resolution, authorize the watermaster to develop, coordinate or provide, through contract or by other means, for weather modification projects involving cloud seeding that are designed to increase the water supplies of the water district by enhancing natural precipitation and which conform to state water planning objectives.

SECTION 2. That Section 42-612, Idaho Code, be, and the same is hereby amended to read as follows:

42-612. BUDGET OF WATER DISTRICT -- ADOPTION AND CONTENTS -- DEBT OF WATER USER. (1) At any annual meeting the water users must adopt a budget covering the estimated expenses of delivering the water of the district for the ensuing year, and by resolution determine that the budget shall be collected. The compensation of the watermaster and the watermaster's assistants and any other expenses of delivering the water of the district to the users thereof, including the costs of the advisory committee in implementing resolutions adopted by the water users of the district for activities other than the payment of the salary and operating expenses of the watermaster and assistants, shall be paid in the manner hereinafter, in this section, provided.

(2) To the extent possible, funding for advisory committee expenses associated with implementing resolutions adopted by the water users for other than the payment of the salary and operating expenses of the watermaster and assistants shall come from funds available pursuant to section 42-613A, Idaho Code. If funds available pursuant to section 42-613A, Idaho Code, are not sufficient to cover expenses incurred in implementing resolutions adopted by the water users, then such expenses shall come from assessments.

(3) The budget shall show the aggregate amount to be collected from all the water users in the district, and the amount to be paid by each ditch, canal company, irrigation district or other water user. For the purpose of computing the respective amounts, to be paid by each water user, the water delivered to the various ditches, canal companies, irrigation districts or other users during the past season or seasons, not exceeding five (5) seasons, shall be used as a basis.

(4) Upon the adoption of the budget the amount payable by each ditch, canal company, irrigation district or other water user, as shown by the budget, shall become the debt of each respectively and shall become due and payable as hereinafter provided. Other provisions of chapter 6, title 42, Idaho Code, notwithstanding, water users may at the annual meeting by resolution provide for an annual minimum charge not to exceed two hundred fifty dollars (\$250) per water user for watermaster services. The minimum

charge is applicable whenever the prorated charge against any ditch, canal company, irrigation district or other water user is less than the minimum charge.

(5) Other provisions of chapter 6, title 42, Idaho Code, notwithstanding, water users at the annual meeting may provide, by resolution, that the respective amounts owed by each water user as shown in the adopted budget shall constitute a final determination of the amount due for that year without the need to carry forward any water user debits or credits to the following year.

Approved March 23, 2015

CHAPTER 83  
(S.B. No. 1110)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE OFFICE OF THE STATE APPELLATE PUBLIC DEFENDER FOR FISCAL YEAR 2015; PROVIDING LEGISLATIVE INTENT REGARDING CAPITAL REPRESENTATION COSTS; 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 207, Laws of 2014, and any other appropriation provided for by law, there is hereby appropriated \$94,900 from the General Fund to the Capital and Conflict Representation Program, which is hereby created within the Office of the State Appellate Public Defender, to be expended for operating expenditures, for the period July 1, 2014, through June 30, 2015.

SECTION 2. CAPITAL REPRESENTATION COSTS. Of the amount appropriated in Section 1 of this act, \$94,900 from the General Fund, or so much thereof as is necessary, shall be used solely for costs directly related to the provision of representation in capital cases and only to the extent such costs are exclusive of, and can be identified and accounted for separately and distinctly from, the operating, personnel, and capital outlay costs of the Office of the State Appellate Public Defender Program. Such costs may include, but are not limited to, consultation with experts; travel, lodging, and per diem for expert and lay witnesses; depositions; investigation; employee travel associated with witness interviews; court reporting and transcription services; expert witness fees; conflict counsel; and preparation of trial exhibits. Any remaining unexpended and unencumbered amounts not so used shall revert to the General Fund.

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 23, 2015



CHAPTER 84  
(S.B. No. 1114)

AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF HUMAN RESOURCES FOR FISCAL YEAR 2016; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING LEGISLATIVE INTENT; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the 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, 2015, through June 30, 2016:

FOR:

Personnel Costs	\$1,081,300
Operating Expenditures	<u>651,500</u>
TOTAL	\$1,732,800

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Division of Human Resources is authorized no more than twelve (12) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, 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. Of the amount appropriated in Section 1 of this act, the Division of Human Resources shall pay the Division of Professional-Technical Education for the cost of providing statewide management and human resources training. The payment amount shall be equal to the Miscellaneous Revenue Fund expenditures in fiscal year 2016 within the Related Services Program of the Division of Professional-Technical Education, less any unencumbered balance remaining on June 30, 2015.

SECTION 4. EMPLOYEE COMPENSATION. It is the intent of the Legislature to progress toward the goal of funding a competitive salary and benefit package that will attract qualified applicants, retain employees committed to public service excellence, motivate employees to maintain high standards of productivity, and reward employees for outstanding performance. Consequently, the Division of Human Resources shall adjust the minimum amounts on the compensation schedule to seventy percent (70%) of policy in order to move the salary structure closer to market rates. The division shall also continue the job classifications that are currently on payline exception to address specific employee recruitment or retention issues.

Approved March 23, 2015

CHAPTER 85  
(H.B. No. 39)

AN ACT

RELATING TO SALES TAX; AMENDING SECTION 63-3622D, IDAHO CODE, TO REMOVE A CERTAIN EXCEPTION TO THE PRODUCTION EXEMPTION.

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

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

63-3622D. PRODUCTION EXEMPTION. There are exempted from the taxes imposed by this chapter:

(a) The sale at retail, storage, use or other consumption in this state of:

(1) Tangible personal property which will enter into and become an ingredient or component part of tangible personal property manufactured, processed, mined, produced or fabricated for sale.

(2) Tangible personal property primarily and directly used or consumed in or during a manufacturing, processing, mining, farming, or fabricating operation, including, but not limited to, repair parts, lubricants, hydraulic oil, and coolants, which become a component part of such tangible personal property; provided that the use or consumption of such tangible personal property is necessary or essential to the performance of such operation.

(3) Chemicals, catalysts, and other materials which are used for the purpose of producing or inducing a chemical or physical change in the product or for removing impurities from the product or otherwise placing the product in a more marketable condition as part of an operation described in subsection (a)(2) of this section, and chemicals and equipment used in clean-in-place systems in the food processing and food manufacturing industries.

(4) Safety equipment and supplies required to meet a safety standard of a state or federal agency when such safety equipment and supplies are used as part of an operation described in subsection (a)(2) of this section.

(5) Plants to be used as part of a farming operation.

(b) Other than as provided in subsection (c) of this section, the exemptions allowed in subsections (a)(1), (a)(2), (a)(3) and (a)(4) of this section are available only to a business or separately operated segment of a business which is primarily devoted to producing tangible personal property which that business will sell and which is intended for ultimate sale at retail within or without this state. A contractor providing services to a business entitled to an exemption under this section is not exempt as to any property owned, leased, rented or used by it unless, as a result of the terms of the contract, the use of the property is exempt under section 63-3615(b), Idaho Code.

(c) The exemptions allowed in subsections (a)(1), (a)(2), (a)(3) and (a)(4) of this section shall also be available to a business, or separately operated segment of a business, engaged in farming or mining, whether as a subcontractor, contractor, contractee or subcontractee, when such business or segment of a business is primarily devoted to producing tangible personal property which is intended for ultimate sale at retail within or without this state, without regard to the ownership of the product being produced.

(d) The exemptions allowed in subsections (a)(1), (a)(2), (a)(3) and (a)(4) of this section shall also be available to a business, or separately operated segment of a business, engaged in the business of processing

materials, substances or commodities for use as fuel for the production of energy, whether as a subcontractor, contractor, contractee or subcontractee, without regard to the ownership of the materials, substances or commodities being processed and irrespective of whether the materials, substances or commodities being processed are intended for ultimate sale at retail within or without this state.

(e) As used in this section, the term "directly used or consumed in or during" a farming operation means the performance of a function reasonably necessary to the operation of the total farming business, including, the planting, growing, harvesting and initial storage of crops and other agricultural products and movement of crops and produce from the place of harvest to the place of initial storage. It includes disinfectants used in the dairy industry to clean cow udders or to clean pipes, vats or other milking equipment.

(f) The exemptions allowed in this section do not include machinery, equipment, materials and supplies used in a manner that is incidental to the manufacturing, processing, mining, farming or fabricating operations such as maintenance and janitorial equipment and supplies.

(g) Without regard to the use of such property, this section does not exempt:

~~(1) Hand tools with a unit purchase price not in excess of one hundred dollars (\$100). A hand tool is an instrument used or worked by hand.~~

~~(2) Tangible personal property used in any activities other than the actual manufacturing, processing, mining, farming or fabricating operations such as office equipment and supplies, and equipment and supplies used in selling or distributing activities.~~

~~(3) Property used in transportation activities.~~

~~(4) Machinery, equipment, tools or other property used to make repairs. This subsection does not include repair parts that become a component part of tangible property exempt from tax under this section or lubricants, hydraulic oil, or coolants used in the operation of tangible personal property exempt under this section.~~

~~(5) Machinery, equipment, tools or other property used to manufacture, fabricate, assemble or install tangible personal property which is:~~

~~(i) Not held for resale in the regular course of business; and~~

~~(ii) Owned by the manufacturer, processor, miner, farmer or fabricator;~~

~~provided, however, this subsection does not prevent exemption of machinery, equipment, tools or other property exempted from tax under subsection (a) (2) or (a) (3) of this section.~~

~~(6) Any improvement to real property or fixture thereto or any tangible personal property which becomes or is intended to become a component of any real property or any improvement or fixture thereto.~~

~~(7) Motor vehicles and aircraft.~~

~~(8) Tangible personal property used or consumed in processing, producing or fabricating tangible personal property exempted from tax under this chapter in sections 63-3622F and 63-3622I, Idaho Code.~~

~~(9) Tangible personal property described in section 63-3622HH, Idaho Code.~~

(h) Any tangible personal property exempt under this section which ceases to qualify for this exemption, and does not qualify for any other exemption or exclusion of the taxes imposed by this chapter, shall be subject to use tax based upon its value at the time it ceases to qualify for exemption. Any tangible personal property taxed under this chapter which later qualifies for this exemption shall not entitle the owner of it to any claim for refund.

CHAPTER 86  
(H.B. No. 47)

AN ACT

RELATING TO THE STATE LAND BOARD; AMENDING SECTION 58-104, IDAHO CODE, TO PROVIDE THAT CERTAIN REVENUE FROM NAVIGABLE WATERWAYS SHALL BE DEPOSITED IN THE NAVIGABLE WATERWAYS FUND, TO PROVIDE FOR THE CREATION OF THE FUND, TO PROVIDE FOR THE USE OF THE FUND, TO REQUIRE APPROPRIATION, TO PROVIDE THAT CERTAIN MONEYS SHALL BE DEPOSITED IN THE WATERWAYS IMPROVEMENT FUND AT THE BEGINNING OF EACH FISCAL YEAR, TO PROVIDE THAT ROYALTIES FROM EXTRACTION OF MINERALS FROM NAVIGABLE WATERWAYS SHALL BE DEPOSITED IN THE PUBLIC SCHOOL PERMANENT ENDOWMENT FUND AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 58-104, Idaho Code, be, and the same is hereby amended to read as follows:

58-104. STATE LAND BOARD -- POWERS AND DUTIES. The state board of land commissioners shall have power:

1. To exercise the general direction, control and disposition of the public lands of the state.

2. To appoint its executive officer, the director of the department of lands.

3. To perform legislative functions not inconsistent with law and to delegate to its executive officer and his assistants the execution of all policies adopted by it.

4. To review upon appeal all decisions of the director of the department of lands in contested matters.

5. To determine the policy, direct the work to be undertaken, solicit bids, contract for work to be performed, and appropriate from its funds the money necessary to carry out such work.

6. To prescribe rules, not inconsistent with law, for the government of the department, the conduct of its employees and clerks, the distribution and performance of its business and the custody, use and preservation of the records, papers, books, documents, and property pertaining thereto.

7. To engage in reseedling and reforestation programs on the public lands of the state.

8. To exchange any public lands of the state, over which the board has power of disposition and control for lands of equal value, the title to which, or power of disposition, belongs or is vested in the governing body or board of trustees of any state governmental unit, agency or institution.

9. (a) To regulate and control the use or disposition of lands in the beds of navigable lakes, rivers and streams, to the natural or ordinary high water mark thereof, so as to provide for their commercial, navigational, recreational or other public use; provided, that the board shall take no action in derogation of or seeking to interfere with the riparian or littoral rights of the owners of upland property abutting or adjoining such lands; except that when necessary to provide for the highest and best use of such lands for commercial, navigational, recreational or other public purposes, the board may acquire the riparian or littoral rights of upland owners by purchase or gift. The term "natural or ordinary high water mark" as herein used shall be defined to be the line which the water impresses on the soil by covering it for sufficient periods to deprive the soil of its vegetation and destroy its value for agricultural purposes. Provided that this definition shall not be construed so as to affect or change the vested property rights of either the

state of Idaho or of riparian or littoral property owners. Lands lying below the meander line of a lake bed encompassing a national wildlife refuge as established under the authority of the Migratory Bird Conservation Act of February 18, 1929 (45 Stat. 1222), as amended, or the Fish and Wildlife Coordination Act (48 Stat. 401), as amended, or the Fish and Wildlife Act of 1956 (70 Stat. 1119), as amended (16 U.S.C. 742a through 742i), are not subject to the application of this act.

(b) Revenue generated by the state from navigable waterways, except mineral royalties, shall be deposited in the navigable waterways fund, which is hereby created in the dedicated fund of the state treasury, and used for the state's administration of navigable waterways, and may be expended only pursuant to appropriation. At the beginning of each fiscal year, those moneys in the navigable waterways fund that exceed two hundred percent (200%) of the current year's appropriations for the state's administration of navigable waterways shall be deposited in the waterways improvement fund established pursuant to section 57-1501, Idaho Code.

(c) Royalties arising from extraction of minerals from navigable waterways shall be deposited in the public school permanent endowment fund established pursuant to section 33-902, Idaho Code.

10. To enter into a joint exercise of powers agreement with the United States forest service in the department of agriculture, pursuant to section 67-2328, Idaho Code.

11. To direct and oversee the conduct and operations of the endowment fund investment board and the Idaho department of lands.

12. To appoint and consult with expert advisors for each critical function for which the state board of land commissioners has responsibility. In this context, the term "expert advisor" shall mean a person engaged in the business for which he holds himself out to be an expert and who is experienced in that field.

13. Strategically plan and establish policies to coordinate the management of state lands with the investment goals of the permanent endowment funds and earnings reserve funds.

14. To provide reports of the status and performance of state endowment lands and the respective endowment funds to the state affairs committees of the senate and the house of representatives within fourteen (14) days after a regular session of the legislature convenes.

15. To make distributions to endowment income funds as provided in section 57-723A, Idaho Code.

Approved March 23, 2015

CHAPTER 87  
(H.B. No. 61)

AN ACT

RELATING TO JUVENILE CORRECTIONS; AMENDING SECTION 20-520, IDAHO CODE, TO AUTHORIZE PROBATION FOR A JUVENILE OFFENDER UNDER CERTAIN CONDITIONS AND TO PROVIDE A CORRECT CITATION.

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

SECTION 1. 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 offender's twenty-first birthday if the court finds that the juvenile offender has committed a crime of a sexual nature. If a juvenile offender is committed to the Idaho department of juvenile corrections pursuant to paragraph (r) of this subsection, the court may place the juvenile offender on probation from the date of sentencing up to three (3) years past the date of release from custody or the juvenile offender's twenty-first birthday, whichever occurs first; provided the court shall conduct a review hearing within thirty (30) days following release of the juvenile offender from the department of juvenile corrections in order to determine the conditions and term of such probation;

(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 18 U.S.C. section 922(x)~~, 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 the juvenile detention center shall notify the school district where the detention 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 offender's driving privileges for such periods of time as the court deems necessary, and

the court may take possession of the juvenile 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 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 juvenile corrections with funds allocated to the county probation office. The director of the department of juvenile corrections may promulgate rules consistent with this paragraph to establish a schedule of fees to be charged to parents by the 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 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 of-

fender 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 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 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 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 offender's parents or custodian to pay the charges imposed by community programs ordered by the court for the juvenile offender, or the juvenile offender's parents 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.



CHAPTER 88  
(H.B. No. 108)

AN ACT

RELATING TO PHARMACY; AMENDING SECTION 54-1704, IDAHO CODE, TO REVISE LANGUAGE RELATING TO THE PRACTICE OF PHARMACY; AMENDING SECTION 54-1732, IDAHO CODE, TO REVISE LANGUAGE RELATING TO VIOLATIONS AND PENALTIES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1733, IDAHO CODE, TO REVISE LANGUAGE RELATING TO VALID PRESCRIPTION DRUG ORDERS; AMENDING CHAPTER 17, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1733B, IDAHO CODE, TO PROVIDE THAT PRESCRIBERS OR PHARMACISTS MAY PRESCRIBE OPIOID ANTAGONISTS TO CERTAIN PERSONS UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE THAT A PERSON ACTING IN GOOD FAITH AND EXERCISING REASONABLE CARE MAY ADMINISTER AN OPIOID ANTAGONIST TO A PERSON WHO APPEARS TO BE EXPERIENCING AN OVERDOSE, TO PROVIDE THAT PERSONS PRESCRIBING OR ADMINISTERING OPIOID ANTAGONISTS IN CERTAIN CIRCUMSTANCES SHALL NOT BE LIABLE IN CIVIL OR ADMINISTRATIVE ACTIONS OR SUBJECT TO CRIMINAL PROSECUTION, TO PROVIDE THAT THE DEPARTMENT OF HEALTH AND WELFARE AND THE OFFICE OF DRUG POLICY SHALL DEVELOP AN EDUCATION PROGRAM AND TO DEFINE A TERM; AND AMENDING SECTION 54-1734, IDAHO CODE, TO PROVIDE AN EXCEPTION TO LAWS ON PRESCRIPTION DRUG SALES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-1704, Idaho Code, be, and the same is hereby amended to read as follows:

54-1704. PRACTICE OF PHARMACY. "Practice of pharmacy" means:

- (1) The interpretation, evaluation and dispensing of prescription drug orders;
- (2) Participation in drug and device selection, drug administration, prospective and retrospective drug reviews and drug or drug-related research;
- (3) The provision of patient counseling and the provision of those acts or services necessary to provide pharmaceutical care;
- (4) The responsibility for:
  - (a) Compounding and labeling of drugs and devices, except labeling by a manufacturer, repackager or distributor of nonprescription drugs and commercially packaged legend drugs and devices;
  - (b) Proper and safe storage of drugs and devices, and maintenance of proper records for them; and
  - (c) The offering or performing of those acts, services, operations or transactions necessary to the conduct, operation, management and control of pharmacy;
- (5) The prescribing of:
  - (a) Dietary fluoride supplements when prescribed according to the American dental association's recommendations for persons whose drinking water is proven to have a fluoride content below the United States department of health and human services' recommended concentration; and
  - (b) Agents for active immunization when prescribed for susceptible persons twelve (12) years of age or older for the protection from communicable disease; and
  - (c) Opioid antagonists pursuant to section 54-1733B, Idaho Code.

SECTION 2. That Section 54-1732, Idaho Code, be, and the same is hereby amended to read as follows:

54-1732. VIOLATIONS AND PENALTIES. (1) No drug outlet designated in section 54-1729, Idaho Code, shall be operated until a certificate of registration has been issued to said facility by the board. Upon the finding of a violation of this subsection, the board may impose one (1) or more of the penalties enumerated in section 54-1728, Idaho Code.

(2) Reinstatement of a certificate that has been suspended, revoked or restricted by the board may be granted in accordance with the procedures specified in section 54-1728(6), Idaho Code.

(3) The following acts, or the failure to act, and the causing of any such act or failure are unlawful:

(a) The sale, delivery or administration of any prescription drug or legend drug, except an opioid antagonist pursuant to section 54-1733B, Idaho Code, unless:

(i) Such legend drug is dispensed or delivered by a pharmacist upon an original prescription, drug order or prescription drug order by a practitioner in good faith in the course of his practice. Any person violating the provisions of this subparagraph shall be guilty of a felony, and on conviction thereof shall be imprisoned in the state penitentiary for a term not to exceed three (3) years, or punished by a fine of not more than five thousand dollars (\$5,000) or by both such fine and imprisonment.

(ii) In the case of a legend drug dispensed by a pharmacist or prescriber, there is a label affixed to the immediate container in which such drug is dispensed. Any person violating this subparagraph shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars (\$500). Nothing in this subparagraph prohibits a practitioner from delivering professional samples of legend drugs in their original containers in the course of his practice when oral directions for use are given at the time of such delivery.

(b) The refilling of any prescription or drug order for a legend drug except as designated on the prescription or drug order, or by the authorization of the practitioner. Any person guilty of violating this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars (\$1,000) or by both such fine and incarceration.

(c) The possession or use of a legend drug or a precursor, except an opioid antagonist pursuant to section 54-1733B, Idaho Code, by any person unless such person obtains such drug on the prescription or drug order of a practitioner. Any person guilty of violating this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars (\$1,000) or by both such fine and incarceration.

(d) The failure to keep records as required by the board. Any person guilty of violating this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars (\$1,000) or by both such fine and incarceration.

(e) The refusal to make available and to accord full opportunity to check any record, as required by the board. Any person guilty of violating this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars (\$1,000) or by both such fine and incarceration.

(f) It is unlawful to:

(i) Obtain or attempt to obtain a legend drug or procure or attempt to procure the administration of a legend drug by fraud, deceit, misrepresentation or subterfuge; by the forgery or alteration of a prescription, drug order, or of any written order; by the concealment of a material fact; or by the use of a false name or the giving of a false address.

(ii) Communicate information to a physician in an effort unlawfully to procure a legend drug, or unlawfully to procure the administration of any such drug. Any such communication shall not be deemed a privileged communication.

(iii) Intentionally make a false statement in any prescription, drug order, order, report or record required by this chapter.

(iv) For the purpose of obtaining a legend drug to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian or other person.

(v) Make or utter any false or forged prescription or false drug order or forged written order.

(vi) Affix any false or forged label to a package or receptacle containing legend drugs. This subparagraph does not apply to law enforcement agencies or their representatives while engaged in enforcing state and federal drug laws.

(vii) Wholesale or retail any prescription or legend drug to any person in this state not entitled by law to deliver such drug to another.

Every violation of ~~subsection (3) paragraph~~ (f) (i) through (vi) of this subsection shall be a misdemeanor and any person convicted thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or fined not more than one thousand dollars (\$1,000), or punished by both such fine and imprisonment. Any person violating ~~subsection (3) paragraph~~ (f) (vii) of this subsection is guilty of a felony and on conviction thereof shall be imprisoned in the state penitentiary for a term not to exceed three (3) years, or punished by a fine of not more than five thousand dollars (\$5,000), or by both such fine and imprisonment.

(4) Provided however, that a veterinarian may dispense or deliver a legend drug prescribed for an animal upon the prescription, drug order, or prescription drug order of another veterinarian. The label shall be affixed pursuant to subsection (3) (a) (ii) of this section, and penalties for violations of the provisions of this subsection shall be as provided in this section for like violations by a pharmacist.

(5) The ultimate user of a legend drug who has lawfully obtained such legend drug may deliver, without being registered, the legend drug to another person for the purpose of disposal of the legend drug if the person receiving the legend drug for purposes of disposal is authorized under a state or federal law or regulation to engage in such activity.

SECTION 3. That Section 54-1733, Idaho Code, be, and the same is hereby amended to read as follows:

54-1733. VALIDITY OF PRESCRIPTION DRUG ORDERS. (1) Except as provided in subsection (4) of this section, a prescription drug order for a legend drug is not valid unless it is issued for a legitimate medical purpose arising from a prescriber-patient relationship which includes a documented patient evaluation adequate to establish diagnoses and identify underlying conditions and/or contraindications to the treatment. Treatment, including issuing a prescription drug order, based solely on an online questionnaire or consultation outside of an ongoing clinical relationship does not constitute a legitimate medical purpose. A prescription drug order may be issued either:

- (a) By a practitioner acting in the usual course of his profession; or
- (b) By a physician, dentist, veterinarian, scientific investigator or other person, other than a pharmacist, who is licensed in a jurisdiction other than the state of Idaho and is permitted by such license to dispense, conduct research with respect to or administer the prescribed legend drugs in the course of his professional practice or research in such jurisdiction, so long as the individual is acting within the jurisdiction, scope and authority of his license when issuing the prescription drug order.
- (c) The prescription drug order may be signed and sent electronically pursuant to chapter 50, title 28, Idaho Code.
- (d) Transmission of prescription drug order. In addition to delivery of the original signed written prescription drug order to a licensed pharmacy:
  - (i) A prescription drug order that has been signed by the practitioner may be received by a licensed pharmacy for dispensing purposes through a facsimile transmission from the prescribing practitioner or the practitioner's agent, or from an institutional facility for a patient or resident in such facility;
  - (ii) A prescription drug order may also be received by a licensed pharmacist verbally from the practitioner, the practitioner's agent or from a licensed practical nurse or licensed professional nurse in an institutional facility for a patient or resident in such facility;
  - (iii) A prescription drug order received verbally from the practitioner by a licensed practical nurse or licensed professional nurse in a licensed institutional facility for a patient or resident in such facility may also be sent by facsimile transmission from the institutional facility to a licensed pharmacy for dispensing purposes provided the transmitted document includes the name of the prescriber issuing the prescription drug order, the name of the nurse who transcribed the order and the name of the person who sent the facsimile.
- (e) In the event that there are no refills remaining on an existing prescription drug order, and the pharmacist requests a new prescription drug order from the practitioner, the practitioner's agent, after obtaining practitioner authorization, may sign and return the request via facsimile so long as:
  - (i) The request is generated from the pharmacy;
  - (ii) The request is for medication that the patient is currently taking;
  - (iii) There are no changes to the type of drug, its strength or directions for the continuation of therapy;
  - (iv) The practitioner's agent's transmission is received via facsimile from the practitioner's office; and
  - (v) The request, which is subsequently transmitted back to the requesting pharmacy by the practitioner's agent, contains all components of a valid prescription drug order.
- (2) It is unlawful for a practitioner to knowingly issue an invalid prescription drug order for a legend drug.
- (3) It is unlawful for a pharmacist or veterinarian to knowingly fill an invalid prescription drug order for a legend drug.
- (4) A prescriber who is otherwise authorized to perform any of the activities listed in this subsection may prescribe or perform any of the following activities for a patient with whom the prescriber does not have a prescriber-patient relationship under the following circumstances:
  - (a) Writing initial admission orders for a newly hospitalized patient;
  - (b) Writing a prescription for a patient of another prescriber for whom the prescriber is taking call;

(c) Writing a prescription for a patient examined by a physician assistant, advanced practice registered nurse or other licensed practitioner with whom the prescriber has a supervisory or collaborative relationship;

(d) Writing a prescription for medication on a short-term basis for a new patient prior to the patient's first appointment;

(e) Writing a prescription for an opioid antagonist pursuant to section 54-1733B, Idaho Code;

(f) In emergency situations where life or health of the patient is in imminent danger;

(fg) 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;

(gh) Epinephrine auto-injectors in the name of a school pursuant to section 33-520A, Idaho Code;

(hi) If a prescriber makes a diagnosis of a sexually transmitted disease in a patient, the prescriber may prescribe or dispense antibiotics to the infected patient's named sexual partner or partners for treatment of the sexually transmitted disease as recommended by the most current centers for disease control and prevention (CDC) guidelines.

(5) Prescribing drugs to individuals without a prescriber-patient relationship and not in accordance with this section shall be unprofessional conduct and the prescriber shall be subject to discipline according to the provisions of the Idaho Code chapter pursuant to which the prescriber is licensed, certified or registered.

SECTION 4. That Chapter 17, 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 54-1733B, Idaho Code, and to read as follows:

54-1733B. OPIOID ANTAGONISTS. (1) Notwithstanding any other provision of law, any prescriber or pharmacist acting in good faith and exercising reasonable care may prescribe an opioid antagonist to:

(a) A person at risk of experiencing an opiate-related overdose;

(b) A person in a position to assist a person at risk of experiencing an opiate-related overdose;

(c) A person who, in the course of his official duties or business, may encounter a person experiencing an opiate-related overdose; or

(d) A person who in the opinion of the prescriber or pharmacist has valid reason to be in the possession of an opioid antagonist.

(2) Notwithstanding any other provision of law, any person acting in good faith and exercising reasonable care may administer an opioid antagonist to another person who appears to be experiencing an opiate-related overdose. As soon as possible, the administering person shall contact emergency medical services.

(3) Any person who prescribes or administers an opioid antagonist pursuant to subsection (1) or (2) of this section shall not be liable in a civil or administrative action or subject to criminal prosecution for such acts.

(4) The department of health and welfare in cooperation with the office of drug policy shall create and maintain an online education program for laypersons and the general public on matters pertaining to opiate-related overdoses, including:

(a) How to recognize symptoms or indications of an opiate-related overdose;

(b) How to store, administer and dispose of an opioid antagonist;

(c) Emergency procedures in the event of an opiate-related overdose; and

(d) Other information deemed pertinent by the department of health and welfare and the office of drug policy.

(5) As used in this section, "opioid antagonist" means naloxone hydrochloride or any other similarly acting and equally safe drug approved by the federal food and drug administration for the treatment of drug overdose.

SECTION 5. That Section 54-1734, Idaho Code, be, and the same is hereby amended to read as follows:

54-1734. EXCEPTIONS. The provisions of this chapter pertaining to the sale of prescription drugs are not applicable:

(1) To the sale of legend drugs to persons included in any of the classes named in paragraphs (a) through (g) in subsection (2) of this section, or to the agents or employees of such persons, for use in the usual and lawful course of their business or practice or in the performance of their lawful official duties, as the case may be; or

(2) To the possession of legend drugs by such persons or their agents or employees for such use:

(a) Pharmacists;

(b) Practitioners;

(c) Persons who procure legend drugs for handling by or under the supervision of pharmacists or practitioners employed by them, or for the purpose of lawful research, teaching, or testing, and not for resale;

(d) Hospitals and other institutions which procure legend drugs for lawful administration by practitioners;

(e) Manufacturers and wholesalers;

(f) Carriers and warehousemen; and

(g) Schools possessing stock supplies of epinephrine auto-injectors pursuant to section 33-520A, Idaho Code; and

(h) Persons, agencies and organizations possessing opioid antagonists pursuant to section 54-1733B, Idaho Code.

(3) To the sale by a business not licensed as a pharmacy of legend drugs (excluding controlled substances) designated for veterinary use which require a prescription, provided that:

(a) The business is registered and licensed with the board of pharmacy.

(b) The sale is authorized by a written or oral order from a veterinarian licensed in this or another state.

1. (i) Prior to dispensing an order from an out-of-state veterinarian, the seller must confirm and document that the veterinarian is properly licensed in his state.

2. (ii) Oral orders must be confirmed by the veterinarian in writing no later than seven (7) days after the seller receives the order.

(c) The written order or confirmation of an oral order must be retained on the premises of the business for at least two (2) years after the original date of the order.

Approved March 23, 2015

CHAPTER 89  
(H.B. No. 125)

AN ACT

RELATING TO OIL AND GAS; AMENDING SECTION 47-318, IDAHO CODE, TO REVISE THE DEFINITION OF "GAS."

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) "Commission" means the oil and gas conservation commission.
- (b) "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) "Correlative rights" means the owners' or producers' just and equitable share in a pool.
- (d) "Field" means the general area underlaid by one (1) or more pools.
- (e) "Gas" means any petroleum hydrocarbon existing in the gaseous phase, including condensate because it originally existed in the gaseous phase.
- (f) "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) "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) "Oil and gas" means oil or gas or both.
- (i) "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) "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) "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) "Producer" means the owner of a well or wells capable of producing oil or gas or both.
- (m) "Reservoir" means a subsurface volume of porous and permeable rock in which oil or gas has accumulated.
- (n) "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) "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.

Approved March 23, 2015

CHAPTER 90  
(H.B. No. 147)

AN ACT

RELATING TO MOTOR VEHICLES; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-402E, IDAHO CODE, TO PROVIDE FOR RENTAL FLEET REGISTRATION, TO DEFINE A TERM, TO PROVIDE FOR ALTERNATIVE SPECIAL REGISTRATION CARDS AND RENTAL CAR STICKERS, TO PROVIDE FOR THE PERIOD OF VALIDITY, TO PROVIDE A CONDITION, TO SPECIFY ANNUAL REGISTRATION RENEWAL REQUIREMENTS, TO PROVIDE FOR CANCELLATION UPON FAILURE TO RENEW AND TO PROVIDE FOR THE COLLECTION AND DEPOSIT OF CERTAIN FEES.

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

SECTION 1. 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 49-402E, Idaho Code, and to read as follows:

49-402E. RENTAL FLEET REGISTRATION. (1) As used in this section "rental fleet" means more than twenty-five (25) motor vehicles that are:

(a) Owned by a rental company;

(b) Offered for rental without a hired driver through a rental agreement; and

(c) Designated by the registered owner of the motor vehicle as a rental fleet vehicle at the time of registration.

(2) (a) On and after the effective date of this act, an owner that registers a motor vehicle, weighing sixteen thousand (16,000) pounds or less, under the provisions of chapter 4, title 49, Idaho Code, may obtain an alternative special registration card and rental car stickers for the license plates if the motor vehicle is owned by a rental company and maintained in the rental company's rental fleet.

(b) Although annual registration shall be required for each fleet vehicle, the registration card and rental car stickers for the license plates issued under paragraph (a) of this subsection are valid for the life of the motor vehicle while the motor vehicle is maintained in the rental fleet.

(3) An owner that receives the alternative special registration card and rental car stickers for the license plates issued under this section shall renew the annual registration. If registration is not renewed, the registration shall be canceled.

(4) In addition to the registration fees collected under chapter 4, title 49, Idaho Code, the department shall also collect an additional two dollars (\$2.00) for the initial registration for each vehicle registered under this section, which shall be deposited in the state highway account.

Approved March 23, 2015



CHAPTER 91  
(H.B. No. 177)

AN ACT

RELATING TO MINORS; AMENDING SECTION 18-1523, IDAHO CODE, TO PROHIBIT THE USE OF TANNING DEVICES ON MINORS EXCEPT UNDER CERTAIN CIRCUMSTANCES.

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

SECTION 1. That Section 18-1523, Idaho Code, be, and the same is hereby amended to read as follows:

18-1523. MINORS -- TATTOOING, BRANDING, TANNING DEVICES AND BODY PIERCING OF MINORS. (1) As used in this section:

(a) "Body piercing" means the perforation of any human body part other than an earlobe for the purpose of inserting jewelry or other decoration or for some other nonmedical purpose~~;~~.

(b) "Branding" means a permanent mark made on human tissue by burning with a hot iron or other instrument for the purpose of decoration or for some other nonmedical purpose~~;~~.

(c) "Minor" means a person under the age of eighteen (18) years but does not include a person who is an emancipated minor~~;~~ and.

(d) "Physician" means any person who holds a license to practice medicine and surgery, osteopathic medicine and surgery or osteopathic medicine as defined by section 54-1803, Idaho Code.

(e) "Tanning device" means equipment that emits electromagnetic radiation with wavelengths in the air between two hundred (200) and four hundred (400) nanometers used for tanning of the skin including, but not limited to, sunlamps, tanning booths or tanning beds, but not including:

(i) Devices for personal use in a private residence;

(ii) Phototherapy devices providing therapeutic benefits to patients receiving medically supervised treatment prescribed by and under the direct supervision of a physician; or

(iii) Devices used to apply chemicals to the skin to create an artificial tan, commonly referred to as spray, spray-on, mist-on or sunless tans.

(f) "Tattoo" means one (1) or more of the following but does not include any mark or design done for a medical purpose:

(i) An indelible mark made on the body of another person by the insertion of a pigment under the skin; or

(ii) An indelible design made on the body of another person by production of scars other than by branding.

(2) No person shall knowingly tattoo, brand, facilitate use of a tanning device or perform body piercing on any minor under the age of fourteen (14) years.

(3) No person shall knowingly tattoo, brand, facilitate use of a tanning device or perform body piercing on a minor between the ages of fourteen (14) and eighteen (18) years unless such person obtains the prior written informed consent of the minor's parent or legal guardian. The minor's parent or legal guardian shall execute the written informed consent required pursuant to this subsection in the presence of the person performing the tattooing, branding or body piercing or facilitating the use of a tanning device on the minor, or in the presence of an employee or agent of such person.

(4) Notwithstanding the foregoing, it shall not be a violation of this section for a physician to use radiation devices approved by the federal food and drug administration for in-office treatment of a minor's medical condition or to facilitate a minor's use of a tanning device where such use is authorized by a physician's prescription.

(5) A person who violates this section is guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500). If there is a subsequent violation of this section within one (1) year of the initial violation, such person shall be fined not less than five hundred dollars (\$500) and not more than one thousand dollars (\$1,000).

Approved March 23, 2015

CHAPTER 92  
(H.B. No. 206)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE MANAGEMENT SERVICES PROGRAM TO COVER AN INCREASE IN TELECOMMUNICATION FEES FOR FISCAL YEAR 2015; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE MANAGEMENT SERVICES PROGRAM TO COVER LEGAL FEES FOR FISCAL YEAR 2015; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE IDAHO CORRECTIONAL INSTITUTION - OROFINO TO COVER LITIGATION COSTS FOR FISCAL YEAR 2015; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE TO PROVIDE INMATE AGRICULTURAL LABOR TO PRIVATE EMPLOYERS FOR FISCAL YEAR 2015; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE COMMUNITY SUPERVISION PROGRAM TO COVER AN EXISTING SHORTFALL FOR FISCAL YEAR 2015; AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT POSITIONS FOR FISCAL YEAR 2015; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF CORRECTION FOR THE MEDICAL SERVICES PROGRAM DUE TO CONTRACT SAVINGS FOR FISCAL YEAR 2015; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF CORRECTION FOR THE IDAHO CORRECTIONAL CENTER (PUBLICLY-OPERATED) DUE TO SALARY SAVINGS FOR FISCAL YEAR 2015; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF CORRECTION FOR THE CORRECTIONAL ALTERNATIVE PLACEMENT PROGRAM DUE TO CONTRACT SAVINGS FOR FISCAL YEAR 2015; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF CORRECTION FOR THE COMMUNITY SUPERVISION PROGRAM IN ORDER TO REALIGN THE APPROPRIATION WITH ESTIMATED EXPENDITURES FOR FISCAL YEAR 2015; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 309, Laws of 2014, and any other appropriation provided for by law, there is hereby appropriated to the Department of Correction for the Management Services Program \$22,500 from the General Fund, to be expended for operating expenditures, for the period July 1, 2014, through June 30, 2015, for the purpose of covering an increase in Idaho Law Enforcement Telecommunication (ILETS) fees.

SECTION 2. In addition to the appropriation made in Section 1, Chapter 309, Laws of 2014, and any other appropriation provided for by law, there is hereby appropriated to the Department of Correction for the Management Services Program \$223,100 from the General Fund, to be expended for operating expenditures, for the period July 1, 2014, through June 30, 2015, for the purpose of covering legal fees associated with the *Walter D. Balla et al. vs. Idaho State Board of Correction* court case.

SECTION 3. In addition to the appropriation made in Section 1, Chapter 309, Laws of 2014, and any other appropriation provided for by law, there is hereby appropriated \$153,000 from the General Fund to the Department of Correction, for the Idaho Correctional Institution - Orofino, to be expended for operating expenditures, for the period July 1, 2014, through June 30, 2015, for the purpose of covering the cost of litigation in the *Morehouse, et al. vs. Idaho Department of Correction, et al.* court case.

SECTION 4. In addition to the appropriation made in Section 1, Chapter 309, Laws of 2014, and any other appropriation provided for by law, there is hereby appropriated from the Inmate Labor Fund to the Department of Correction for the South Idaho Correctional Institution - Boise, the following amounts to be expended for the designated expense classes, for the period July 1, 2014, through June 30, 2015, for the purpose of providing inmate agricultural labor to private employers:

FOR:

Personnel Costs	\$101,700
Operating Expenditures	53,000
Capital Outlay	<u>2,200</u>
TOTAL	\$156,900

SECTION 5. In addition to the appropriation made in Section 1, Chapter 309, Laws of 2014, and any other appropriation provided for by law, there is hereby appropriated \$200,000 from the Parolee Supervision Fund to the Department of Correction for the Community Supervision Program, to be expended for operating expenditures, for the period July 1, 2014, through June 30, 2015, for the purpose of covering a shortfall in that program.

SECTION 6. FTP AUTHORIZATION. The full-time equivalent position authorization provided to the Department of Correction in Section 2, Chapter 309, Laws of 2014, is increased by two (2) for the period July 1, 2014, through June 30, 2015.

SECTION 7. Notwithstanding any other provision of law to the contrary, the appropriation made to the Department of Correction for the Medical Services Program in Section 1, Chapter 309, Laws of 2014, from the General Fund, is hereby reduced by \$1,606,700 for operating expenditures, for the period July 1, 2014, through June 30, 2015, due to contract savings.

SECTION 8. Notwithstanding any other provision of law to the contrary, the appropriation made to the Department of Correction for the Idaho Correctional Center (publicly-operated) in Section 1, Chapter 309, Laws of 2014, from the General Fund, is hereby reduced by \$442,000 for personnel costs, for the period July 1, 2014, through June 30, 2015, due to salary savings.

SECTION 9. Notwithstanding any other provision of law to the contrary, the appropriation made to the Department of Correction for the Correctional Alternative Placement Program in Section 1, Chapter 309, Laws of 2014, from the General Fund, is hereby reduced by \$159,900 for operating expenditures, for the period July 1, 2014, through June 30, 2015, due to contract savings.

SECTION 10. Notwithstanding any other provision of law to the contrary, the appropriation made to the Department of Correction for the Community Supervision Program in Section 1, Chapter 309, Laws of 2014, from the General Fund, is hereby reduced by \$161,300 for operating expenditures, for the period July 1, 2014, through June 30, 2015, in order to realign the appropriation with estimated expenditures.

SECTION 11. 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, 2015

CHAPTER 93  
(H.B. No. 207)

AN ACT  
APPROPRIATING MONEYS TO THE OFFICE OF DRUG POLICY FOR FISCAL YEAR 2016; 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 Office of Drug Policy, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$248,800	\$54,200		\$303,000
Miscellaneous Revenue				
Fund	15,000	3,500		18,500
Federal Grant				
Fund	<u>241,900</u>	<u>364,600</u>	<u>\$3,326,600</u>	<u>3,933,100</u>
TOTAL	\$505,700	\$422,300	\$3,326,600	\$4,254,600

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Office of Drug Policy is authorized no more than six (6) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 23, 2015

CHAPTER 94  
(H.B. No. 124)

AN ACT

RELATING TO OIL AND GAS WELLS; AMENDING SECTION 47-321, IDAHO CODE, TO PROVIDE EXCEPTIONS RELATING TO THE SIZE AND SHAPE OF SPACING UNITS, TO PROVIDE FOR THE EXCLUSION OF CERTAIN FEDERAL MINERALS AND TO PROVIDE FOR THE CONSENT OF CERTAIN OPERATORS AND MINERAL INTEREST OWNERS RELATING TO THE GRANTING OF EXCEPTIONS ASSOCIATED WITH WELL DRILLING LOCATIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 47-321, Idaho Code, be, and the same is hereby amended to read as follows:

47-321. SPACING UNITS. (a~~1~~) The commission shall promptly establish spacing units for each pool except in those pools that have been developed to such an extent that it would be impracticable or unreasonable to establish spacing units at the existing stage of development.

(b~~2~~) An order establishing spacing units shall specify the size and shape of the units, which shall be such as will, in the opinion of the commission, result in the efficient and economical development of the pool as a whole. Any unit established by the commission shall be geographic. The geographic boundaries of the unit shall be described in accordance with the public land survey system. Except where circumstances, geologic or otherwise, affecting the orderly development of a pool reasonably require, or as provided in paragraph (b) of this subsection, tThe size of the spacing units shall not be smaller than the maximum area that can be efficiently and economically drained by one (1) well; provided, ~~that:~~

(a) Iif, at the time of a hearing to establish spacing units there is not sufficient evidence from which to determine the area that can be efficiently and economically drained by one (1) well, the commission may make an order establishing temporary spacing units for the orderly development of the pool pending the obtaining of the information required to determine what the ultimate spacing should be.

(b) Where the federal agency administering federal minerals that would otherwise be included in a spacing unit has not leased or has failed to offer such federal minerals for lease in accordance with 30 U.S.C. section 226 and 43 CFR 3120.1-2(a), such federal minerals may be excluded from the unit upon application or upon the commission's own motion.

(e~~3~~) Except where circumstances, geologic or otherwise, affecting the orderly development of a pool reasonably require, spacing units shall be of approximately uniform size and shape for the entire pool. The commission may establish spacing units of different sizes or shapes for different parts of a pool or may grant exceptions to the size or shape of any spacing unit or units or may change the sizes or shape of one (1) or more existing spacing units.

(d~~4~~) An order establishing spacing units shall direct that no more than one (1) well shall be drilled to and produced from the common source of supply on any unit, and shall specify the location for the drilling of a well thereon, in accordance with a reasonably uniform spacing pattern, with necessary exceptions for wells drilled or drilling at the time of the filing of the application. If the commission finds that a well drilled at the prescribed location would not be likely to produce in paying quantities, or that surface conditions would substantially add to the burden or hazard of drilling such well, or for other good cause shown, the commission is authorized to make an order permitting the well to be drilled at a location other than that prescribed by such spacing order. Application for an exception

shall be filed with the commission and may be granted where it is shown that good cause for such exception exists and that consent to such exception has been given by the owners operators of all drilling units directly or diagonally offsetting the drilling unit for which an exception is requested, and, as to the lands upon which drilling units have not been established, by the majority of mineral interest owners of those lands which would be included in directly or diagonally offsetting drilling units under said order, if said order were extended to include such additional lands.

(e5) An order establishing spacing units for a pool shall cover all lands determined or believed to be underlaid by such pool, and may be modified by the commission from time to time to include additional lands determined to be underlaid by such pool or to exclude lands determined not to be underlaid by such pool.

(f6) An order establishing spacing units may be modified by the commission to change the size or shape of one (1) or more spacing units, or to permit the drilling of additional wells on a reasonably uniform pattern.

(g7) Upon the filing of an application to establish spacing units, no additional well shall be commenced for production from the pool until the order establishing spacing units has been made, unless the commencement of the well is authorized by order of the commission.

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 24, 2015

CHAPTER 95  
(H.B. No. 75)

AN ACT

RELATING TO SALES TAX; AMENDING SECTION 63-3622N, IDAHO CODE, TO PROVIDE THAT EYEGLASSES AND EYEGLASS COMPONENT PARTS ARE EXEMPT FROM CERTAIN TAXES AND TO REVISE LANGUAGE RELATING TO HEARING AID PARTS AND ACCESSORIES; AMENDING SECTION 63-3622N, IDAHO CODE, AS ENACTED BY SECTION 1 OF THIS ACT, TO PROVIDE THAT CONTACT LENSES ARE EXEMPT FROM CERTAIN TAXES; AND PROVIDING EFFECTIVE DATES.

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

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

63-3622N. PRESCRIPTIONS. (a) There are exempted from the taxes imposed by this chapter the following when administered or distributed by a practitioner or when purchased by or on behalf of an individual for use by such individual under a prescription or work order of a practitioner:

- (1) Drugs, hypodermic syringes, insulin, insulin syringes, artificial eyes, eyeglasses and eyeglass component parts, hearing aids, and hearing aid parts and hearing aid accessories;
- (2) Drugs and supplies used in hemodialysis and peritoneal dialysis;
- (3) Braces and other orthopedic appliances;
- (4) Dental prostheses and other orthodontic appliances, including fillings;
- (5) Catheters, urinary accessories, colostomy supplies, and other prosthetic devices which shall include, but are not limited to, enteral and parenteral feeding equipment and supplies, (tubing, pumps, con-

tainers) catheter devices and supplies, but not including eyeglasses and contact lenses;

(6) Equipment and devices or chemical reagents which are used to test or monitor blood or urine of a diabetic;

(7) Other durable medical equipment and devices and related parts and supplies specifically designed for those products which shall include, but are not limited to: oxygen equipment, oxygen cylinders, cylinder transport devices (sheaths, carts), cylinder stands, support devices, regulators, flowmeters, tank wrench, oxygen concentrators, liquid oxygen base dispenser, liquid oxygen portable dispenser, oxygen tubing, nasal cannulas, face masks, oxygen humidifiers, oxygen fittings and accessories, respiratory therapy equipment, room humidifiers, aspirators, aerosol compressors (stationary and portable), ultrasonic nebulizers, volume ventilators, respirators and related device supplies, percussors, vibrators, IPPB, circuits, devices and supplies, air oxygen mixers, manual resuscitators, nebulizers, tubing, emergency oxygen delivery units, patient care equipment, physical and occupational therapy items, hospital beds, trapeze bars and bar stand, bed rails, geriatric chairs, lift recliners, bedside commodes, overbed tables, patient lifts, patient lift slings, traction stands and pulleys, shower seating, shower grip bars, raised toilet seats, toilet safety frames, walking canes, quad canes and accessories, walkers, wheeled walkers, walker accessories, I.V. stands, crawlers, posture back supports for seating, posture back supports, wheelchairs, crutches, crutch pads, tips, grips, restraints, standing frame devices and accessories, hand exercise equipment and putty, specially designed hand utensils, leg weights, paraffin baths, hydrocollators, hydrotherm heating pads, communication aids for physically impaired, specialized seating, desks, work stations, foam wedges, writing and speech aids for the impaired, dressing aids, button loops and zipper aids, grooming aids, dental aids, eating and drinking aids, splints, holders, household aids for the impaired, shampoo trays, reaching aids, foam seating pads, decubitus seating pads, bed pads, fitted stroller, alternating pressure pads and pumps, stethoscope, sphygmomanometers, otoscopes, sitting and sleeping cushions, patient transport devices, boards, stairglides, lifts in home, transcutaneous nerve stimulators, muscle stimulators and bone fracture therapy devices.

(b) The term "practitioner" means a physician, physician assistant, surgeon, podiatrist, chiropractor, dentist, optometrist, psychologist, ophthalmologist, nurse practitioner, denturist, orthodontist, audiologist, hearing aid dealer or fitter or any person licensed by the state under title 54, Idaho Code, to prescribe, administer or distribute items identified in subsection (a) of this section.

(c) The term "drug" means a drug which is:

(1) Defined in section 54-1705, Idaho Code; and

(2) Either:

(i) Listed in a drug compendia which the state board of pharmacy requires to be maintained by Idaho licensed pharmacies; or

(ii) The use of which requires a prescription under state or federal law. The term shall not include articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in animals other than man.

(d) The term "durable medical equipment" means equipment which:

(1) Can withstand repeated use;

(2) Is primarily and customarily used to serve a medical purpose;

(3) Generally is not useful to a person in the absence of illness or injury; and

(4) Is appropriate for use in the home.

(e) The term "prosthetic device" means a device which replaces a missing part or function of the human body and shall include any supplies physically connected to such devices.

SECTION 2. That Section 63-3622N, Idaho Code, as enacted by Section 1 of this act, be, and the same is hereby amended to read as follows:

63-3622N. PRESCRIPTIONS. (a) There are exempted from the taxes imposed by this chapter the following when administered or distributed by a practitioner or when purchased by or on behalf of an individual for use by such individual under a prescription or work order of a practitioner:

(1) Drugs, hypodermic syringes, insulin, insulin syringes, artificial eyes, eyeglasses and eyeglass component parts, contact lenses, hearing aids, hearing aid parts and hearing aid accessories;

(2) Drugs and supplies used in hemodialysis and peritoneal dialysis;

(3) Braces and other orthopedic appliances;

(4) Dental prostheses and other orthodontic appliances, including fillings;

(5) Catheters, urinary accessories, colostomy supplies, and other prosthetic devices which shall include, but are not limited to, enteral and parenteral feeding equipment and supplies, (tubing, pumps, containers) catheter devices and supplies, ~~but not including contact lenses~~;

(6) Equipment and devices or chemical reagents which are used to test or monitor blood or urine of a diabetic;

(7) Other durable medical equipment and devices and related parts and supplies specifically designed for those products which shall include, but are not limited to: oxygen equipment, oxygen cylinders, cylinder transport devices (sheaths, carts), cylinder stands, support devices, regulators, flowmeters, tank wrench, oxygen concentrators, liquid oxygen base dispenser, liquid oxygen portable dispenser, oxygen tubing, nasal cannulas, face masks, oxygen humidifiers, oxygen fittings and accessories, respiratory therapy equipment, room humidifiers, aspirators, aerosol compressors (stationary and portable), ultrasonic nebulizers, volume ventilators, respirators and related device supplies, percussors, vibrators, IPPB, circuits, devices and supplies, air oxygen mixers, manual resuscitators, nebulizers, tubing, emergency oxygen delivery units, patient care equipment, physical and occupational therapy items, hospital beds, trapeze bars and bar stand, bed rails, geriatric chairs, lift recliners, bedside commodes, overbed tables, patient lifts, patient lift slings, traction stands and pulleys, shower seating, shower grip bars, raised toilet seats, toilet safety frames, walking canes, quad canes and accessories, walkers, wheeled walkers, walker accessories, I.V. stands, crawlers, posture back supports for seating, posture back supports, wheelchairs, crutches, crutch pads, tips, grips, restraints, standing frame devices and accessories, hand exercise equipment and putty, specially designed hand utensils, leg weights, paraffin baths, hydrocollators, hydrotherm heating pads, communication aids for physically impaired, specialized seating, desks, work stations, foam wedges, writing and speech aids for the impaired, dressing aids, button loops and zipper aids, grooming aids, dental aids, eating and drinking aids, splints, holders, household aids for the impaired, shampoo trays, reaching aids, foam seating pads, decubitus seating pads, bed pads, fitted stroller, alternating pressure pads and pumps, stethoscope, sphygmomanometers, otoscopes, sitting and sleeping cushions, patient transport devices, boards, stairglides, lifts in home, transcutaneous nerve stimulators, muscle stimulators and bone fracture therapy devices.



(b) The term "practitioner" means a physician, physician assistant, surgeon, podiatrist, chiropractor, dentist, optometrist, psychologist, ophthalmologist, nurse practitioner, denturist, orthodontist, audiologist, hearing aid dealer or fitter or any person licensed by the state under title 54, Idaho Code, to prescribe, administer or distribute items identified in subsection (a) of this section.

(c) The term "drug" means a drug which is:

(1) Defined in section 54-1705, Idaho Code; and

(2) Either:

(i) Listed in a drug compendia which the state board of pharmacy requires to be maintained by Idaho licensed pharmacies; or

(ii) The use of which requires a prescription under state or federal law. The term shall not include articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in animals other than man.

(d) The term "durable medical equipment" means equipment which:

(1) Can withstand repeated use;

(2) Is primarily and customarily used to serve a medical purpose;

(3) Generally is not useful to a person in the absence of illness or injury; and

(4) Is appropriate for use in the home.

(e) The term "prosthetic device" means a device which replaces a missing part or function of the human body and shall include any supplies physically connected to such devices.

SECTION 3. Section 1 of this act shall be in full force and effect on and after July 1, 2015. Section 2 of this act shall be in full force and effect on and after July 1, 2016.

Law without signature.

#### CHAPTER 96

(H.B. No. 29, As Amended in the Senate)

#### AN ACT

RELATING TO EXEMPTIONS FROM TAXATION; AMENDING SECTION 63-602KK, IDAHO CODE, TO REVISE AND TO PROVIDE ADDITIONAL PROVISIONS RELATING TO CERTAIN PERSONAL PROPERTY EXEMPT FROM TAXATION AND TO MAKE TECHNICAL CORRECTIONS.

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

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

63-602KK. PROPERTY EXEMPT FROM TAXATION -- CERTAIN PERSONAL PROPERTY.

(1) (a) An item of taxable personal property purchased on or after January 1, 2013, shall be exempt from property taxation if the item of taxable personal property has an acquisition price of three thousand dollars (\$3,000) or less.

(b) For purposes of this section, the term "acquisition cost" means all costs required to put an item of taxable personal property into service and includes:

- (i) The purchase price of a new or used item;
- (ii) The cost of freight and shipping;
- (iii) The cost of installation, engineering, erection or assembly; and
- (iv) Sales and use taxes.

(c) For purposes of this subsection, an "item of taxable personal property" means equipment, machinery, furniture or other personal property that is functioning at its highest and best use for the purpose it was designed and constructed and is generally capable of performing that function without being combined with other items of personal property. An item of taxable personal property is not an individual component part of a piece of equipment, machinery, furniture or other personal property as a whole. An item of taxable personal property does not include an improvement to real property, a part that will become an improvement, or anything defined as a fixture.

(2) On and after January 1, 2013, except as provided in subsection (8) of this section, each taxpayer's person's personal property, located in the county, which is not otherwise exempt, shall be exempt to the extent of one hundred thousand dollars (\$100,000). For the purposes of this section, a taxpayer person includes two (2) or more individuals people using the property in a common enterprise or a related group of two (2) or more organizations when the individuals or organizations who are within a relationship described in section 267 of the Internal Revenue Code, as defined in section 63-3004, Idaho Code.

(3) (a) No later than the third Monday of November 2013, the county clerk of each county shall certify to the state tax commission the amount of exemption from property taxes under subsection (2) of this section, in that county for that year. The certification shall identify the property receiving tax reductions, the value of the property, the property's location, the amount of the tax levy applicable to personal property in the location, and the tax before and after the exemption allowed in subsection (2) of this section. The certification shall be in the form prescribed by the state tax commission and shall include such additional information as the commission may require by rule as needed to implement the purpose of this section. The certification shall be reviewed and, if necessary, corrected by the state tax commission.

(b) For Except as provided in subsection (7) of this section, the year beginning January 1, 2014, and every year thereafter, the amount of annual replacement of property tax on personal property exempted pursuant to subsection (2) of this section shall be the amount approved by the state tax commission pursuant to paragraph (a) of this subsection.

(4) (a) Subject to the limitations of this section, the state tax commission shall reimburse from the amount appropriated for personal property tax replacement in section 63-3638, Idaho Code, the county treasurer of each county for the reduction on the certification provided in subsection (3) of this section. The county treasurer shall reimburse from the amount received to each taxing district within the county an amount in proportion to the amount of reduction shown on the certification in subsection (3) of this section as corrected. The amount that would otherwise be attributable to tax revenues derived from tax levies on personal property exempted by this section within an existing revenue allocation area as defined in section 50-2903(15), Idaho Code, shall be paid directly by the county treasurer to such public body or agency entitled thereto, equal to the amounts that would have been distributed in accordance with the formula for such distribution set forth in section 50-2908, Idaho Code. Taxing districts created on or after January 1, 2013, shall not be eligible for the reimbursement provided for in this paragraph.

(b) The state tax commission shall pay one-half (1/2) of the reimbursement provided in this section no later than December 20 of each year, and the second one-half (1/2) shall be paid by no later than June 20 of the following year. The money received by the county tax collector under the provisions of this section may be considered by counties and other taxing districts and budgeted against at the same time, and in the same manner, and in the same year as revenues from taxation. The total amount paid to the county treasurers shall not exceed the amount certified to the state tax commission under subsection (3) of this section.

(c) For purposes of the limitation provided by section 63-802, Idaho Code, moneys received from distributions pursuant to section 63-3638, Idaho Code, as property tax replacement for the taxable value of property exempt from taxation pursuant to this section shall be treated as property tax revenues.

(5) (a) Nothing contained in this section shall affect the taxation of forest lands or forest products pursuant to chapter 17, title 63, Idaho Code, or the taxation of the net profits of mines pursuant to chapter 28, title 63, Idaho Code.

(b) The exemption from personal property tax provided for in subsection (2) of this section shall not apply to motor vehicles, recreational vehicles, aircraft and boats that are not registered with the state of Idaho and for which required registration fees have not been paid.

(6) (a) The application for the exemption provided for in subsection (2) of this section shall be in the form prescribed by the state tax commission and shall include such information as the state tax commission may require by rule as needed to implement the purpose of this section including, but not limited to, a list of each item of personal property, the purchase date of each item of personal property, the unit cost of each item of personal property, if more than the exemption allowed in subsection (1) of this section, and the total cost of the items of personal property.

(b) The application for this exemption, if the county is capable of so providing, may be transmitted by the county assessor electronically, as that term is defined in section 63-115, Idaho Code, when requested by the taxpayer, or mailed by the county assessor to the taxpayer, or his agent or representative at the taxpayer's last known post office address, no later than March 1 of each year. The transmission or mailing of the application shall also include the taxpayer's application for the exemption allowed by this section for the last year in which the taxpayer filed an application.

(c) A taxpayer need only make application for the exemption in this section once as long as all of the following conditions are met:

(i) The taxpayer has received the exemption during the previous year as a result of him making a valid application as defined in this section.

(ii) The amount of the exemption allowed by this section is more than the taxable value of personal property owned by the taxpayer.

(iii) The taxpayer has not made purchases of personal property, excluding items of taxable personal property exempted pursuant to subsection (1) of this section, that would cause the taxable value of the personal property owned by the taxpayer to exceed the maximum amount allowed as an exemption by this section.

(d) Knowingly failing to report changes in the taxable value of personal property that exceed the amount of the exemption allowed pursuant to this section shall subject the taxpayer to a fine not in excess of ten thousand dollars (\$10,000) in addition to other penalties set forth in this chapter.

(7) Recovery of property tax exemptions allowed by this section but improperly claimed:

(a) Upon discovery of evidence, facts or circumstances indicating any exemption allowed by this section was improperly claimed, the county assessor shall decide whether the exemption claimed should have been allowed, and if not, notify the board of county commissioners, at which time the board may waive a recovery of the property tax and notify such taxpayer in writing.

(b) The assessment and collection of the recovery of property tax must begin within the seven (7) year period beginning on the date the assessment notice reflecting the improperly claimed exemption was required to be mailed to the taxpayer.

(c) The taxpayer may appeal to the board of tax appeals the decision by the board of county commissioners to assess the recovery of property tax within thirty (30) days of the date the county assessor sent the notice to the taxpayer pursuant to this section.

(d) For purposes of calculating the tax, the amount of the recovered property tax shall be for each year the exemption allowed by this section was improperly claimed or approved, up to a maximum of seven (7) years. The amount of the recovery of property tax shall be calculated using the product of the amount of exempted value for each year multiplied by the levy for that year plus costs, late charges and interest for each year at the rates equal to those provided for delinquent property taxes during that year. In cases of fraud, the fine set forth in subsection (6) (d) of this section shall be assessed for each tax year.

(e) Any recovery of property tax shall be due and payable no later than the date provided for property taxes in section 63-903, Idaho Code, and if not timely paid, late charges and interest, beginning the first day of January in the year following the year the county assessor sent the notice to the taxpayer pursuant to this section, shall be calculated at the current rate provided for property taxes.

(f) Recovered property taxes shall be billed, collected and distributed in the same manner as property taxes, ~~except each taxing district or unit shall be notified of the amount of any recovered property taxes included in any distribution.~~ If the recovery is for property tax for which the state provided replacement money, the amounts recovered shall be reported and remitted to the state tax commission, which shall reimburse the general fund. The state tax commission will then notify each affected taxing district or unit of its proportionate share of the recovered property tax, which amount shall be deducted from future payments to be made pursuant to subsection (3) of this section.

(g) Thirty (30) days after the taxpayer is notified, as provided in ~~subsection (7) paragraph (a) of this subsection,~~ the assessor shall record a notice of intent to attach a lien. Upon the payment in full of such recovered property taxes prior to the attachment of the lien as provided in ~~subsection (7) paragraph (h) of this subsection,~~ or upon the successful appeal by the taxpayer, the county assessor shall record a rescission of the intent to attach a lien within seven (7) business days of receiving such payment or within seven (7) business days of the county commissioners' decision granting the appeal.

(h) Any unpaid recovered property taxes shall become a lien upon the taxpayer's personal property in the same manner as provided for property taxes in section 63-206, Idaho Code, except such lien shall attach as of the first day of January in the year following the year the county treasurer sent the notice to the taxpayer pursuant to this section.

(i) For purposes of the limitation provided by section 63-802, Idaho Code, moneys received pursuant to this subsection as recovery of property tax shall be treated as property tax revenue.

(8) For operating property with values apportioned to more than one (1) county, the personal property exemption shall be subtracted from the Idaho allocated value prior to apportionment and, for private railcar companies,

prior to determining whether their values are to be apportioned. Notwithstanding amounts calculated as provided in subsection (1) of this section, the amount of the exemption otherwise provided in subsection (2) of this section shall be calculated as follows:

(a) Take the lesser amount of:

(i) The number of counties in which a company has operating property multiplied by one hundred thousand dollars (\$100,000); or

(ii) The total statewide value of eligible personal property reported by the company.

(b) Reduce the amount calculated in paragraph (a) of this subsection by the value of any nonoperating personal property granted the exemption otherwise found in subsection (2) of this section, as reported by county assessors.

Approved March 25, 2015

CHAPTER 97  
(H.B. No. 31)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-1404, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE ILLEGAL KILLING, POSSESSION OR WASTE OF CERTAIN FISH AND GAME ANIMALS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 36-1404, Idaho Code, be, and the same is hereby amended to read as follows:

36-1404. UNLAWFUL KILLING, POSSESSION OR WASTE OF WILD ANIMALS, BIRDS AND FISH -- REIMBURSABLE DAMAGES -- SCHEDULE -- ASSESSMENT BY MAGISTRATES -- INSTALLMENT PAYMENTS -- DEFAULT JUDGMENTS -- DISPOSITION OF MONEYS. (a) In addition to the penalties provided for violating any of the provisions of title 36, Idaho Code, any person who pleads guilty, is found guilty of or is convicted of the illegal killing or the illegal possession or illegal waste of game animals or birds or fish shall reimburse the state for each animal so killed or possessed or wasted as follows:

1. Elk, seven hundred fifty dollars (\$750) per animal killed, possessed or wasted.
2. Caribou, bighorn sheep, mountain goat and moose, one thousand five hundred dollars (\$1,500) per animal killed, possessed or wasted.
3. Any other species of big game, four hundred dollars (\$400) per animal killed, possessed or wasted.
4. Wild turkey and swan, two hundred fifty dollars (\$250) per bird killed, possessed or wasted.
5. Sturgeon, chinook salmon, and wild steelhead, two hundred fifty dollars (\$250) per fish killed, possessed or wasted.
6. Bull trout, anadromous salmon and steelhead, one hundred fifty dollars (\$150) per fish killed, possessed or wasted.
7. Any other game bird, game fish or furbearer, fifty dollars (\$50.00) per animal killed, possessed or wasted.

Provided further, that any person who pleads guilty, is found guilty of, or is convicted of a ~~flagrant violation, in accordance with section 36-1402(e), Idaho Code,~~ involving the illegal killing, illegal possession or illegal waste of a trophy big game animal as defined in section 36-202(h), Idaho Code, shall reimburse the state for each animal so killed, possessed or wasted, as follows:

1. Trophy mule deer: two thousand dollars (\$2,000) per animal killed, possessed or wasted;
2. Trophy white-tailed deer: two thousand dollars (\$2,000) per animal killed, possessed or wasted;
3. Trophy elk: five thousand dollars (\$5,000) per animal killed, possessed or wasted;
4. Trophy bighorn sheep: ten thousand dollars (\$10,000) per animal killed, possessed or wasted;
5. Trophy moose: ten thousand dollars (\$10,000) per animal killed, possessed or wasted;
6. Trophy mountain goat: ten thousand dollars (\$10,000) per animal killed, possessed or wasted;
7. Trophy pronghorn antelope: two thousand dollars (\$2,000) per animal killed, possessed or wasted;
8. Trophy caribou: ten thousand dollars (\$10,000) per animal killed, possessed or wasted.

For each additional animal of the same category killed, possessed or wasted during any twelve (12) month period, the amount to be reimbursed shall double from the amount for each animal previously illegally killed, possessed or wasted. For example, the reimbursable damages for three (3) elk illegally killed during a twelve (12) month period would be five thousand two hundred fifty dollars (\$5,250), calculated as follows: seven hundred fifty dollars (\$750) for the first elk; one thousand five hundred dollars (\$1,500) for the second elk; and three thousand dollars (\$3,000) for the third elk. In the case of three (3) trophy elk illegally killed in a twelve (12) month period, the reimbursable damages would be thirty-five thousand dollars (\$35,000) calculated as follows: five thousand dollars (\$5,000) for the first elk, ten thousand dollars (\$10,000) for the second elk, and twenty thousand dollars (\$20,000) for the third elk. Provided however, that wildlife possessing a fifty dollar (\$50.00) reimbursement value shall be figured at the same rate per each animal in violation, without compounding.

(b) In every case of a plea of guilty, a finding of guilt or a conviction of unlawfully releasing any fish species into any public body of water in the state, the court before whom the plea of guilty, finding of guilt, or conviction is obtained shall enter judgment ordering the defendant to reimburse the state for the cost of the expenses, not to exceed ten thousand dollars (\$10,000), incurred by the state to correct the damage caused by the unlawful release. For purposes of this subsection, "unlawfully releasing any fish species" shall mean a release of any species of live fish, or live eggs thereof, in the state without the permission of the director of the department of fish and game; provided, that no permission is required when fish are being freed from a hook and released at the same time and place where caught or when crayfish are being released from a trap at the same time and place where caught.

(c) In every case of a plea of guilty, a finding of guilt or a conviction, the court before whom such plea of guilty, finding of guilt or conviction is obtained shall enter judgment ordering the defendant to reimburse the state in a sum or sums as hereinbefore set forth including postjudgment interest. If two (2) or more defendants are convicted of the illegal taking, killing or the illegal possession or wasting of the game animal, bird or fish, such judgment shall be declared against them jointly and severally.

(d) The judgment shall fix the manner and time of payment, and may permit the defendant to pay the judgment in installments at such times and in such amounts as, in the opinion of the court, the defendant is able to pay. In no event shall any defendant be allowed more than two (2) years from the date judgment is entered to pay the judgment.

(e) A defaulted judgment or any installment payment thereof may be collected by any means authorized for the enforcement of a judgment under the provisions of the Idaho Code.

(f) All courts ordering such judgments of reimbursement shall order such payments to be made to the department, which shall deposit them with the state treasurer, and the treasurer shall place them in the state fish and game account.

(g) The court shall retain jurisdiction over the case. If at any time the defendant is in arrears ninety (90) days or more, the court may revoke the defendant's hunting, fishing or trapping privileges until the defendant completes payment of the judgment.

Approved March 25, 2015

CHAPTER 98  
(H.B. No. 58)

AN ACT

RELATING TO WATER QUALITY; AMENDING SECTION 39-3623, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE EFFECT OF CERTAIN RULES, TO PROVIDE THAT MIXING ZONES ARE SUBJECT TO SPECIFIED LAWS AND RULES AND TO PROVIDE FOR THE DURATION OF EFFECTIVENESS OF MIXING ZONES.

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

SECTION 1. That Section 39-3623, Idaho Code, be, and the same is hereby amended to read as follows:

39-3623. EFFECT OF RULES. Every rule promulgated within the authority conferred in sections 39-3617 through 39-3622, Idaho Code, shall be of temporary effect and shall become permanent only by enactment of statute at the first regular session following adoption of the rule. Rules not approved in the above manner shall be rejected, null, void and of no force and effect on July 1, following submission of the rules to the legislature.

(1) The rules promulgated within the authority conferred in this act and adopted by the board of health and welfare on January 31, 1990, and contained in IDAPA 16.01.2003,31 and 16.01.2003,32 and 16.01.2053,01 through 16.01.2053,07, are hereby approved by the legislature.

(2) The rules promulgated within the authority conferred in this act and adopted by the board of environmental quality on November 10, 2010, and contained in IDAPA 58.01.02.010-71, ~~58.01.02.010-72~~, 58.01.02.051-03 and 58.01.02.052-09, and on November 19, 2014, and contained in IDAPA 58.01.02.060 and 58.01.02.010 are hereby approved by the legislature. A mixing zone approved by the department shall be subject to the applicable laws and rules for mixing zones in effect at the time it is approved and such mixing zone shall remain effective until the applicable permit is renewed or modified.

Approved March 25, 2015

CHAPTER 99  
(H.B. No. 64)

AN ACT

RELATING TO IMPRISONMENT; AMENDING SECTION 18-309, IDAHO CODE, TO PROVIDE CREDIT FOR A PERIOD OF INCARCERATION SERVED AS A CONDITION OF PROBATION IN CERTAIN INSTANCES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 19-2603, IDAHO CODE, TO REVISE A PROVISION RELATING TO A FINDING THAT A DEFENDANT HAS VIOLATED PROBATION AND TO PROVIDE THAT A DEFENDANT SHALL RECEIVE CREDIT FOR TIME SERVED IN CERTAIN INSTANCES; AND AMENDING SECTION 20-209A, IDAHO CODE, TO REMOVE A PROVISION RELATING TO CREDIT FOR TIME SPENT IN CUSTODY PENDING TRIAL, SENTENCING OR APPEAL.

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

SECTION 1. That Section 18-309, Idaho Code, be, and the same is hereby amended to read as follows:

18-309. COMPUTATION OF TERM OF IMPRISONMENT. (1) In computing the term of imprisonment, the person against whom the judgment was entered, shall receive credit in the judgment for any period of incarceration prior to entry of judgment, if such incarceration was for the offense or an included offense for which the judgment was entered. The remainder of the term commences upon the pronouncement of sentence and if thereafter, during such term, the defendant by any legal means is temporarily released from such imprisonment and subsequently returned thereto, the time during which he was at large must not be computed as part of such term.

(2) In computing the term of imprisonment when judgment has been withheld and is later entered or sentence has been suspended and is later imposed, the person against whom the judgment is entered or imposed shall receive credit in the judgment for any period of incarceration served as a condition of probation under the original withheld or suspended judgment.

SECTION 2. That Section 19-2603, Idaho Code, be, and the same is hereby amended to read as follows:

19-2603. PRONOUNCEMENT AND EXECUTION OF JUDGMENT AFTER VIOLATION OF PROBATION. When the defendant is brought before the court in such case finds that the defendant has violated the terms and conditions of probation, it may, if judgment has been withheld, pronounce any judgment which it could originally have pronounced, or, if judgment was originally pronounced but suspended, the original judgment shall be in full force and effect and may be executed according to law, and revoke probation. The time such person shall have been at large under such suspended sentence shall not be counted as a part of the term of his sentence, but the time of. The defendant's sentence shall count shall receive credit for time served from the date of service of such a bench warrant issued by the court after a finding of probable cause to believe the defendant has violated a condition of probation, for any time served following an arrest of the defendant pursuant to section 20-227, Idaho Code, and for any time served as a condition of probation under the withheld judgment or suspended sentence.

SECTION 3. That Section 20-209A, Idaho Code, be, and the same is hereby amended to read as follows:

20-209A. COMPUTATION OF TERM. When a person is sentenced to the custody of the board of correction, his term of confinement begins from the day of his sentence. ~~A person who is sentenced may receive credit toward ser-~~



~~vice of his sentence for time spent in physical custody pending trial or sentencing, or appeal, if that detention was in connection with the offense for which the sentence was imposed. The time during which the person is voluntarily absent from the penitentiary, jail, facility under the control of the board of correction, or from the custody of an officer after his sentence, shall not be estimated or counted as a part of the term for which he was sentenced.~~

Approved March 25, 2015

CHAPTER 100  
(H.B. No. 72, As Amended in the Senate)

AN ACT

RELATING TO VETERINARIANS AND VETERINARY TECHNICIANS; AMENDING SECTION 54-2112, IDAHO CODE, TO REMOVE UNNECESSARY LANGUAGE, TO PROVIDE THAT VETERINARY TECHNICIANS MAY PLACE THEIR CERTIFICATION ON INACTIVE STATUS AND TO PROVIDE CONDITIONS FOR TRANSFER FROM INACTIVE TO ACTIVE STATUS.

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

SECTION 1. That Section 54-2112, Idaho Code, be, and the same is hereby amended to read as follows:

54-2112. EXPIRATION OF LICENSE OR CERTIFICATION -- NOTICE -- RENEWAL -- INACTIVE STATUS. (1) All licenses and certifications shall expire annually on July 1 unless renewed in a timely manner by submission of the annual renewal form prescribed by the board, proof of completion of the appropriate hours of continuing education, by meeting other requirements as defined in the rules adopted by the board and payment of the renewal fee established and published by the board.

(2) An expired license or certification may be reinstated by paying the established late fee and renewal fee, and by fulfilling the other requirements of this section.

(3) An expired license or certification ~~must be reinstated prior to August 1 of the year in which the license or certification was issued. Licenses and certifications not reinstated prior to August 1 will lapse. Individuals whose licenses or certifications have lapsed must make application to the board as if for a new license or certification.~~

(4) Once a license or certification has expired or lapsed, the person or agency may not practice veterinary medicine or veterinary technology or function as a certified euthanasia technician or agency until the license or certification has been reinstated or until the person or agency has applied for and received a new license or certification.

(5) Any veterinarian licensed in Idaho or veterinary technician certified in Idaho who advises the board, in writing, that he wishes to remain licensed or certified in this state, but does not intend to actively practice veterinary medicine or veterinary technology in the state of Idaho and therefore does not intend to meet the licensing or certification requirements for an active license ~~for the current licensing year or certification~~, shall be transferred from active to inactive status and shall be required to pay inactive status fees as prescribed in the rules of the board. Any person may transfer from inactive to active status by making written application for reinstatement to active status, paying all required fees and by meeting other requirements for reinstatement as defined in the rules of the board.

Approved March 25, 2015

CHAPTER 101  
(H.B. No. 114)

AN ACT

RELATING TO THE PURE SEED LAW; AMENDING SECTION 22-413, IDAHO CODE, TO PROVIDE FOR THE APPLICABILITY OF SPECIFIED LAW TO THE CULTIVATION, PRODUCTION AND PROCESSING OF SEEDS AND TO PROHIBIT REGULATION BY POLITICAL SUBDIVISIONS RELATING TO THE CULTIVATION, PRODUCTION AND PROCESSING OF SEEDS; AND AMENDING SECTION 22-414, IDAHO CODE, TO DEFINE TERMS.

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

SECTION 1. That Section 22-413, Idaho Code, be, and the same is hereby amended to read as follows:

22-413. STATEWIDE JURISDICTION AND PREEMPTION. (1) This chapter and its provisions are of statewide concern and occupy the whole field of regulation regarding the cultivation, production, processing, registration, labeling, sale, storage, transportation, distribution, notification of use, use of seeds, and planting of seeds to the exclusion of all local ordinances or regulations. Except as otherwise specifically provided in this chapter, no ordinance or regulation of any political subdivision may prohibit or in any way attempt to regulate any matter relating to the cultivation, production, processing, registration, labeling, sale, storage, transportation, distribution, notification of use, use of seeds, or planting of seeds.

(2) The provisions of subsection (1) of this section shall not preempt county or city local zoning ordinances governing the physical location or siting of seed facilities.

SECTION 2. That Section 22-414, Idaho Code, be, and the same is hereby amended to read as follows:

22-414. DEFINITIONS. When used in this act:

(1) "Advertisement" means all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of the chapter.

(2) "Agricultural seeds" includes the seeds of grass, forage, cereal and fiber crops and any other kinds of seeds commonly recognized within this state as agricultural, turf, or field seeds, and mixtures of such seeds, but specifically does not include seed potatoes as defined in section 22-501, Idaho Code.

(3) "Blend" means seed consisting of more than one (1) variety of a kind, each in excess of five percent (5%) by weight of the whole.

(4) "Certifying agency" means:

(a) An agency authorized under laws of a state, territory, or possession to officially certify seed and which has standards and procedures approved by the U.S. secretary of agriculture to assure the genetic purity and identity of the seed certified; or

(b) An agency of a foreign country determined by the U.S. secretary of agriculture to adhere to procedures and standards for seed certification comparable to those adhered to generally by seed certifying agencies under paragraph (a) of this subsection.

(5) "Crop seed" means any agricultural, vegetable or flower seed, other than the pure seed, present in a lot of seed and which weighs less than five percent (5%) of the total weight of the lot.

(6) "Cultivation" means:

(a) Preparing and using soil for growing plants; or

(b) Growing and caring for plants under conditions that can be controlled.

(7) "Director" means the director of the department of agriculture of the state of Idaho.

(78) "Flower seeds" includes seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts, and commonly known and sold under the name of flower seeds in this state.

(89) "Grower's or collector's declaration" means a statement signed by the grower or collector giving for any lot of seed the lot number, the kind, the variety, origin, and weight.

(910) "Hard seed" means any viable agricultural, vegetable or flower seed that fails to germinate within the prescribed germination period due to an impermeable seed coat.

(101) "Hybrid" means the first generation seed of a cross produced by controlling the pollination and by combining one (1) of three (3) combinations:

- (a) Two (2) or more inbred lines;
- (b) One (1) inbred or a single cross with an open pollinated variety; or
- (c) Two (2) varieties or species, except open pollinated varieties of corn (*Zea mays*).

The second generation or subsequent generations from such crosses shall not be regarded as hybrids. Hybrid designations shall be treated as variety names.

(112) "Inert matter" means the collective parts of incomplete plants, seeds, seedlike structures and other nonseed particles present in a lot of seed.

(123) "In-state seed dealer" means any seed dealer with an established plant, warehouse or place of business in the state of Idaho.

(134) "Kind" means one (1) or more related species or subspecies which singly or collectively is known by one (1) common name, for example, as wheat, oat, vetch, sweet clover, cabbage, or cauliflower.

(145) "Labeling" includes all labels, and other written, printed, or graphic representations in any form whatsoever, accompanying and pertaining to any seed whether in bulk or in containers, and includes invoices.

(156) "Lot of seed" means a definite quantity of seed identified by a lot number or other lot identification every portion or bag of which is uniform, within permitted tolerances, for the factors which appear in the labeling.

(167) "Mixture," "mix," or "mixed" means seed consisting of more than one (1) kind, each in excess of five percent (5%) by weight of the whole.

(178) "Noxious weed seeds" means the seeds of any plant which is determined by the director to be injurious to public health, crops, livestock, land or other property. They are divided into two (2) classes:

- (a) "Prohibited noxious weed seeds" are the seeds which when established are highly destructive and difficult to control in this state by ordinary good cultural practices.
- (b) "Restricted noxious weed seeds" are the seeds of such weeds as are very objectionable in fields, lawns, or gardens but can be controlled by good cultural practices.

The director shall publish and maintain a list of all noxious weeds, which shall also be included in the rules of the department of agriculture. Pursuant to administrative rules, the director may add to or subtract from the list of seeds included under either definition. Any addition or subtraction is effective thirty (30) days after publication.

(189) "Origin" for an indigenous stand of trees is the area on which the trees are growing; for a nonindigenous stand, it is the place from which the seeds or plants were originally introduced.

(1920) "Out-of-state seed dealer" means any seed dealer selling or shipping seed into the state of Idaho without owning an established plant, warehouse or place of business in Idaho.

(201) "Person" shall include any individual, partnership, corporation, company, society or association.

(212) "Private hearing" may consist of a discussion of facts between the person charged with a violation of the provisions of this chapter and the enforcement officer.

(23) "Processing" means a continuous action, operation or series of changes taking place in a definite manner or a series of actions that produce something or that lead to a particular result.

(224) "Producer" means any person who is the owner, tenant or operator of land who has an interest in and receives all or part of the proceeds from the sale of seeds produced on that land.

(25) "Production" means the process of making or growing seeds for sale or use.

(236) "Record" is all information relating to a shipment of seed and must include a file sample of each lot of seed, purity, and current germination test documentation. For tree and shrub seed, the record must also include all documents supporting the statement of origin and elevation of the seed.

(247) "Seed dealer" means any person that lets it be known by any means or manner that he has seed offered for sale.

(28) "Seeds" means all seeds as defined in this section.

(259) "Stop sale" means an administrative order restraining the sale, use, disposition, and movement of a designated seed lot.

(2630) "Tree seed and shrub seed" includes seeds of woody plants commonly known and sold as tree seed and shrub seeds.

(2731) "Variety" means a subdivision of a kind which is characterized by growth, plant, fruit, seed or other characteristics by which it can be differentiated from other sorts of the same kind.

(2832) "Vegetable seeds" means the seeds of those crops which are grown in gardens or on truck farms and are generally known and sold under the name of vegetable seeds.

(2933) "Weed seeds" means the seeds of all plants recognized as weeds by the director.

Approved March 25, 2015

CHAPTER 102  
(H.B. No. 123)

AN ACT

RELATING TO THE OIL AND GAS CONSERVATION COMMISSION; AMENDING SECTION 47-317, IDAHO CODE, TO PROVIDE THAT THE COMMISSION'S ACTIONS IN EXERCISING ITS DUTIES AND AUTHORITIES SHALL NOT BE CONSIDERED TO BE CONTESTED CASES AND TO PROVIDE AN EXCEPTION.

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

SECTION 1. That Section 47-317, Idaho Code, be, and the same is hereby amended to read as follows:

47-317. OIL AND GAS CONSERVATION COMMISSION CREATED -- POWERS -- LIMIT ON LOCAL RESTRICTIONS -- ATTORNEY GENERAL. (1) There is hereby created an oil and gas conservation commission of the state of Idaho within the department of lands. The commission shall consist of five (5) members appointed by the governor with the advice and consent of the senate. The members shall serve at the pleasure of the governor. One (1) member shall be knowledgeable in oil and gas matters, one (1) member shall be knowledgeable in geological matters, one (1) member shall be knowledgeable in water matters, one (1) mem-

ber shall be a private landowner who owns mineral rights with the surface in a county with oil and gas activity and one (1) member shall be a private landowner who does not own mineral rights.

(2) The term of office of each member of the commission shall be four (4) years, except that upon July 1, 2013, the governor shall appoint one (1) member for a term of one (1) year, one (1) member for a term of two (2) years, one (1) member for a term of three (3) years and two (2) members for terms of four (4) years. After the initial appointment, the governor shall appoint members to serve in office for a term of four (4) years commencing on July 1. A vacancy shall be filled by appointment for the unexpired term in the same manner provided for an appointment to the full term.

(3) The commission shall annually elect a chairman and a vice chairman from their membership. Such officers shall hold their respective offices until their successors are elected. If a vacancy occurs in either office, the commission shall elect a member to fill such office for the remainder of the term.

(4) The commission shall meet at least annually and thereafter on dates set by the commission. A majority of the voting members shall constitute a quorum.

(5) The members of the commission shall be compensated as provided in section 59-509(n), Idaho Code.

(6) Unless the commission appoints another person to be the secretary of the commission, the director of the department of lands shall be the secretary of the commission.

(7) The commission may employ personnel as may be deemed necessary, prescribe their duties and fix their compensation. In the alternative, the commission may contract with the department of lands for services.

(8) The commission shall have and is hereby given jurisdiction and authority over all persons and property, public and private, necessary to enforce the provisions of this act, and shall have power and authority to make and enforce rules, regulations and orders, and do whatever may reasonably be necessary to carry out the provisions of this act. Any delegation of authority to any other state officer, board or commission to administer any and all other laws of this state relating to the conservation of oil and gas is hereby rescinded and withdrawn and such authority is hereby unqualifiedly conferred upon the commission, as herein provided. Any person, or the attorney general, on behalf of the state, may apply for a hearing before the commission, or the commission may initiate proceedings, upon any question relating to the administration of this act, and jurisdiction is hereby conferred upon the commission to hear and determine the same and enter its rule, regulation or order with respect thereto. The commission may designate hearing officers who shall have the power and authority to conduct hearings in the name of the commission at any time and place in accordance with the provisions of chapter 52, title 67, Idaho Code. Provided however, that when the commission is exercising its duties and authorities granted under this chapter, such actions shall not be considered to be contested cases as defined in subsection (6) of section 67-5201, Idaho Code, and section 67-5240, Idaho Code, unless the commission, in its discretion, determines that a contested case hearing would be of assistance to the commission in the exercise of its duties and authorities.

(9) It is the intent of the legislature to occupy the field of the regulation of oil and gas exploration and production with the limited exception of the exercise of planning and zoning authority granted cities and counties pursuant to chapter 65, title 67, Idaho Code.

(10) To implement the purpose of the oil and gas conservation act, and to advance the public interest in the orderly development of the state's oil and gas resources, while at the same time recognizing the responsibility of local governments to protect the public health, safety and welfare, it is herein provided that:

(a) The commission will notice the respective city or county with jurisdiction upon receipt of an application and will remit, electronically, a copy of all application materials.

(b) No ordinance, resolution, requirement or standard of a city, county or political subdivision, except a state agency with authority, shall actually or operationally prohibit the extraction of oil and gas; provided however, that extraction may be subject to reasonable local ordinance provisions, not repugnant to law, which protect public health, public safety, public order or which prevent harm to public infrastructure or degradation of the value, use and enjoyment of private property. Any ordinance regulating extraction enacted pursuant to chapter 65, title 67, Idaho Code, shall provide for administrative permitting under conditions established by ordinance, not to exceed twenty-one (21) days, unless extended by agreement of the parties or upon good cause shown.

(c) No ordinance, resolution, requirement or standard of a city, county or political subdivision, except a state agency with authority, shall actually or operationally prohibit construction or operation of facilities and infrastructure needed for the post-extraction processing and transport of gas and oil. However, such facilities and infrastructure shall be subject to local ordinances, regulations and permitting requirements, not repugnant to law, as provided in chapter 65, title 67, Idaho Code.

(11) The commission may sue and be sued in its administration of this act in any state or federal district court in the state of Idaho having jurisdiction of the parties or of the subject matter.

(12) The attorney general shall act as the legal advisor of the commission and represent the commission in all court proceedings and in all proceedings before it, and in any proceeding to which the commission may be a party before any department of the federal government.

Approved March 25, 2015

CHAPTER 103  
(H.B. No. 136)

AN ACT

RELATING TO COUNTY JAILS; AMENDING SECTION 20-237A, IDAHO CODE, TO PROVIDE FUNDING FOR CERTAIN PROBATIONERS AND PAROLEES COMMITTED TO A COUNTY JAIL.

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

SECTION 1. That Section 20-237A, Idaho Code, be, and the same is hereby amended to read as follows:

20-237A. FUNDING PER DIEM COSTS OF STATE PRISONERS HOUSED IN COUNTY JAILS, RELATED ADDITIONAL EXPENSES AND MANNER OF PAYMENT. (1) The board of correction shall pay each county for housing prisoners convicted, sentenced and committed to the custody of the state board of correction, including probationers and parolees committed to a county jail under section 20-219(7)(b), Idaho Code, beginning on the day after receipt by the director of notice that a person is in custody, as provided in section 20-237, Idaho Code.

(2) The state board of correction shall pay counties housing state sentenced prisoners a minimum rate of forty-five dollars (\$45.00) per day, per inmate. Nothing stated herein will prohibit the state board of correction

from entering into a contract with a county pursuant to section 20-241, Idaho Code.

(3) In addition to payment of per diem costs as above provided, the state board of correction shall pay for all ordinary and necessary medical and dental expenses of state prisoners housed in county jails.

(4) As between themselves, the state board of correction and each of the counties will be responsible for their pro rata share of any property damages or personal injuries arising from the housing of state sentenced prisoners, which is attributable to their respective negligence or otherwise wrongful conduct. This provision shall not alter or affect any immunities or exceptions to governmental liability the state or counties may possess as to private persons pursuant to the Idaho tort claims act, chapter 9, title 6, Idaho Code.

(5) The legislature shall appropriate sufficient funds annually to the department of correction to make all payments to counties as required in this section.

(6) The county sheriffs shall bill the department of correction at least every sixty (60) days. The department of correction shall pay such bills within sixty (60) days of their receipt.

(7) The germane committees of the legislature shall review the costs of housing inmates in county jails every three (3) years beginning in 2004.

Approved March 25, 2015

CHAPTER 104  
(H.B. No. 138)

AN ACT

RELATING TO COUNTY JAILS; REPEALING SECTION 20-609, IDAHO CODE, RELATING TO REMOVAL OF PRISONERS IN CASE OF PESTILENCE; AND REPEALING SECTION 20-626, IDAHO CODE, RELATING TO EXPENSES OF REMOVAL.

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

SECTION 1. That Section 20-609, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 20-626, Idaho Code, be, and the same is hereby repealed.

Approved March 25, 2015

CHAPTER 105  
(H.B. No. 150)

AN ACT

RELATING TO MEDICAL LICENSURE; AMENDING CHAPTER 18, TITLE 54, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 54-1842 THROUGH 54-1866, IDAHO CODE, TO ENACT THE INTERSTATE MEDICAL LICENSURE COMPACT, TO STATE THE PURPOSE OF THE COMPACT, TO DEFINE TERMS, TO PROVIDE LICENSURE ELIGIBILITY STANDARDS FOR PHYSICIANS, TO ESTABLISH HOW THE STATE OF PRINCIPAL LICENSE SHALL BE DESIGNATED, TO ESTABLISH LICENSURE PROCEDURES UNDER THE COMPACT, TO ESTABLISH LICENSING FEES, TO ESTABLISH LICENSE RENEWAL PROCEDURES, TO ESTABLISH A COORDINATED INFORMATION SYSTEM, TO ESTABLISH INVESTIGATION PROCEDURES, TO ESTABLISH DISCIPLINARY PROCEDURES, TO ESTABLISH A COMMISSION, TO ESTABLISH POWERS AND DUTIES OF THE COMMIS-

SION, TO ESTABLISH THE FINANCE POWERS OF THE COMMISSION, TO ESTABLISH THE ORGANIZATION AND OPERATION OF THE COMMISSION, TO ESTABLISH THE RULEMAKING FUNCTIONS OF THE COMMISSION, TO PROVIDE FOR OVERSIGHT OF THE COMPACT, TO PROVIDE FOR ENFORCEMENT OF THE COMPACT, TO ESTABLISH DEFAULT PROCEDURES, TO PROVIDE FOR DISPUTE RESOLUTION, TO PROVIDE THAT ANY STATE IS ELIGIBLE TO BECOME A MEMBER STATE AND TO PROVIDE AN EFFECTIVE DATE AND AMENDMENT PROCEDURES, TO ESTABLISH HOW TO WITHDRAW FROM THE COMPACT, TO ESTABLISH HOW THE COMPACT COULD BE DISSOLVED, TO PROVIDE SEVERABILITY AND TO ESTABLISH HOW THE COMPACT SHOULD BE CONSTRUED, AND TO ESTABLISH THE COMPACT'S RELATIONSHIP WITH OTHER LAWS.

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

SECTION 1. That Chapter 18, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 54-1842 through 54-1866, Idaho Code, and to read as follows:

54-1842. INTERSTATE MEDICAL LICENSURE COMPACT. The interstate medical licensure compact is hereby enacted into law and entered into with all other jurisdictions legally joining therein, in the form substantially as follows in sections 54-1843 through 54-1866, Idaho Code.

54-1843. PURPOSE. In order to strengthen access to health care and in recognition of the advances in the delivery of health care, the member states of the interstate medical licensure compact have allied in common purpose to develop a comprehensive process that complements the existing licensing and regulatory authority of state medical boards and provides a streamlined process that allows physicians to become licensed in multiple states, thereby enhancing the portability of a medical license and ensuring the safety of patients. The compact creates another pathway for licensure and does not otherwise change a state's existing medical practice act. The compact also adopts the prevailing standard for licensure and affirms that the practice of medicine occurs where the patient is located at the time of the physician-patient encounter and therefore requires the physician to be under the jurisdiction of the state medical board where the patient is located. State medical boards that participate in the compact retain the jurisdiction to impose an adverse action against a license to practice medicine in that state issued to a physician through the procedures in the compact.

54-1844. DEFINITIONS. As used in this compact:

(1) "Bylaws" means those bylaws established by the interstate commission pursuant to section 54-1853, Idaho Code, for its governance, or for directing and controlling its actions and conduct.

(2) "Commissioner" means the voting representative appointed by each member board pursuant to section 54-1853, Idaho Code.

(3) "Conviction" means a finding by a court that an individual is guilty of a criminal offense through adjudication, or entry of a guilty or equivalent plea to the charge by the offender. Evidence of an entry of a conviction of a criminal offense by the court shall be considered final for purposes of disciplinary action by a member board.

(4) "Expedited license" means a full and unrestricted medical license granted by a member state to an eligible physician through the process set forth in the compact.

(5) "Interstate commission" means the interstate commission created pursuant to section 54-1853, Idaho Code.



(6) "License" means authorization by a state for a physician to engage in the practice of medicine, which would be unlawful without the authorization.

(7) "Medical practice act" means laws and rules governing the practice of allopathic and osteopathic medicine within a member state.

(8) "Member board" means a state agency in a member state that acts in the sovereign interests of the state by protecting the public through licensure, regulation and education of physicians as directed by the state government.

(9) "Member state" means a state that has enacted the compact.

(10) "Offense" means a felony, gross misdemeanor or crime of moral turpitude.

(11) "Physician" means any person who:

(a) Is a graduate of a medical school accredited by the liaison committee on medical education, the commission on osteopathic college accreditation or a medical school listed in the international medical education directory or its equivalent;

(b) Passed each component of the United States medical licensing examination (USMLE) or the comprehensive osteopathic medical licensing examination (COMLEX-USA) within three (3) attempts, or any of its predecessor examinations accepted by a state medical board as an equivalent examination for licensure purposes;

(c) Successfully completed graduate medical education approved by the accreditation council for graduate medical education or the American osteopathic association;

(d) Holds specialty certification or a time-unlimited specialty certificate recognized by the American board of medical specialties or the American osteopathic association's bureau of osteopathic specialists;

(e) Possesses a full and unrestricted license to engage in the practice of medicine issued by a member board;

(f) Has never been convicted or received adjudication, deferred adjudication, community supervision or deferred disposition for any offense by a court of appropriate jurisdiction;

(g) Has never held a license authorizing the practice of medicine subjected to discipline by a licensing agency in any state, federal or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license;

(h) Has never had a controlled substance license or permit suspended or revoked by a state or the United States drug enforcement administration; and

(i) Is not under active investigation by a licensing agency or law enforcement authority in any state, federal or foreign jurisdiction.

(12) "Practice of medicine" means the clinical prevention, diagnosis or treatment of human disease, injury or condition requiring a physician to obtain and maintain a license in compliance with the medical practice act of a member state.

(13) "Rule" means a written statement by the interstate commission promulgated pursuant to section 54-1853, Idaho Code, that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact or an organizational, procedural or practice requirement of the interstate commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

(14) "State" means any state, commonwealth, district or territory of the United States.

(15) "State of principal license" means a member state where a physician holds a license to practice medicine and which has been designated as such by the physician for purposes of registration and participation in the compact.

54-1845. ELIGIBILITY. (1) A physician must meet the eligibility requirements as defined in section 54-1844(11), Idaho Code, to receive an expedited license under the terms and provisions of the compact.

(2) A physician who does not meet the requirements of section 54-1844(11), Idaho Code, may obtain a license to practice medicine in a member state if the individual complies with all laws and requirements, other than the compact, relating to the issuance of a license to practice medicine in that state.

54-1846. DESIGNATION OF STATE OF PRINCIPAL LICENSE. (1) A physician shall designate a member state as the state of principal license for purposes of registration for expedited licensure through the compact if the physician possesses a full and unrestricted license to practice medicine in that state, and the state is:

- (a) The state of primary residence for the physician;
- (b) The state where at least twenty-five percent (25%) of the physician's practice of medicine occurs;
- (c) The location of the physician's employer; or
- (d) The state designated as the physician's state of residence for purpose of federal income tax, if no other state qualifies under paragraph (a), (b) or (c) of this subsection.

(2) A physician may redesignate a member state as the state of principal license at any time, as long as the state meets the requirements in subsection (1) of this section.

(3) The interstate commission is authorized to develop rules to facilitate redesignation of another member state as the state of principal license.

54-1847. APPLICATION AND ISSUANCE OF EXPEDITED LICENSE. (1) A physician seeking licensure through the compact shall file an application for an expedited license with the member board of the state selected by the physician as the state of principal license.

(2) Upon receipt of an application for an expedited license, the member board within the state selected as the state of principal license shall evaluate whether the physician is eligible for expedited licensure and issue a letter of qualification, verifying or denying the physician's eligibility to the interstate commission.

(a) Static qualifications, which include verification of medical education, graduate medical education, results of any medical or licensing examination and other qualifications as determined by the interstate commission through rule, shall not be subject to additional primary source verification where the primary source is already verified by the state of principal license.

(b) The member board within the state selected as the state of principal license shall, in the course of verifying eligibility, perform a criminal background check of an applicant, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the federal bureau of investigation, with the exception of federal employees who have suitability determination in accordance with 5 CFR 731.202.

(c) Appeal on the determination of eligibility shall be made to the member state where the application was filed and shall be subject to the law of that state.

(3) Upon verification of eligibility pursuant to subsection (2) of this section, physicians eligible for an expedited license shall complete the registration process established by the interstate commission to receive a license in a member state selected pursuant to subsection (1) of this section, including the payment of any applicable fees.

(4) Upon verification of eligibility pursuant to subsection (2) of this section and any payment of fees pursuant to subsection (3) of this section, a member board shall issue an expedited license to the physician. This license shall authorize the physician to practice medicine in the issuing state consistent with the medical practice act and all applicable laws and regulations of the issuing member board and member state.

(5) An expedited license shall be valid for a period consistent with the licensure period in the member state and in the same manner as required for other physicians holding a full and unrestricted license within the member state.

(6) An expedited license obtained through the compact shall be terminated if a physician fails to maintain a license in the state of principal licensure for a nondisciplinary reason without redesignation of a new state of principal licensure.

(7) The interstate commission is authorized to develop rules regarding the application process, including payment of any applicable fees, and the issuance of an expedited license.

54-1848. FEES FOR AN EXPEDITED LICENSE. (1) A member state issuing an expedited license authorizing the practice of medicine in that state may impose a fee for a license issued or renewed through the compact.

(2) The interstate commission is authorized to develop rules regarding fees for expedited licenses.

54-1849. RENEWAL AND CONTINUED PARTICIPATION. (1) A physician seeking to renew an expedited license granted in a member state shall complete a renewal process with the interstate commission if the physician:

(a) Maintains a full and unrestricted license in a state of principal license;

(b) Has not been convicted or received adjudication, deferred adjudication, community supervision or deferred disposition for any offense by a court of appropriate jurisdiction;

(c) Has not had a license authorizing the practice of medicine subject to discipline by a licensing agency in any state, federal or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license; and

(d) Has not had a controlled substance license or permit suspended or revoked by a state or the United States drug enforcement administration.

(2) Physicians shall comply with all continuing professional development or continuing medical education requirements for renewal of a license issued by a member state.

(3) The interstate commission shall collect any renewal fees charged for the renewal of a license and distribute the fees to the applicable member board.

(4) Upon receipt of any renewal fees collected pursuant to subsection (3) of this section, a member board shall renew the physician's license.

(5) Physician information collected by the interstate commission during the renewal process will be distributed to all member boards.

(6) The interstate commission is authorized to develop rules to address renewal of licenses obtained through the compact.

54-1850. COORDINATED INFORMATION SYSTEM. (1) The interstate commission shall establish a database of all physicians licensed or who have applied for licensure under the compact.

(2) Notwithstanding any other provision of law, member boards shall report to the interstate commission any public action or complaints against a licensed physician who has applied or received an expedited license through the compact.

(3) Member boards shall report disciplinary or investigatory information determined as necessary and proper by rule of the interstate commission.

(4) Member boards may report any nonpublic complaint, disciplinary or investigatory information not required by subsection (3) of this section to the interstate commission.

(5) Member boards shall share complaint or disciplinary information about a physician upon request of another member board.

(6) All information provided to the interstate commission or distributed by member boards shall be confidential, filed under seal and used only for investigatory or disciplinary matters.

(7) The interstate commission is authorized to develop rules for mandated or discretionary sharing of information by member boards.

54-1851. JOINT INVESTIGATIONS. (1) Licensure and disciplinary records of physicians are deemed investigative.

(2) In addition to the authority granted to a member board by its respective medical practice act or other applicable state law, a member board may participate with other member boards in joint investigations of physicians licensed by the member boards.

(3) A subpoena issued by a member state shall be enforceable in other member states.

(4) Member boards may share any investigative, litigation or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

(5) Any member state may investigate actual or alleged violations of the statutes authorizing the practice of medicine in any other member state in which a physician holds a license to practice medicine.

54-1852. DISCIPLINARY ACTIONS. (1) Any disciplinary action taken by any member board against a physician licensed through the compact shall be deemed unprofessional conduct which may be subject to discipline by other member boards, in addition to any violation of the medical practice act or regulations in that state.

(2) If a license granted to a physician by the member board in the state of principal license is revoked, surrendered or relinquished in lieu of discipline, or suspended, then all licenses issued to the physician by member boards shall automatically be placed, without further action necessary by any member board, on the same status. If the member board in the state of principal license subsequently reinstates the physician's license, a license issued to the physician by any other member board shall remain encumbered until that respective member board takes action to reinstate the license in a manner consistent with the medical practice act of that state.

(3) If disciplinary action is taken against a physician by a member board not in the state of principal license, any other member board may deem the action conclusive as to matter of law and fact decided, and:

(a) Impose the same or lesser sanction against the physician so long as such sanction is consistent with the medical practice act of that state; or

(b) Pursue separate disciplinary action against the physician under its respective medical practice act, regardless of the action taken in other member states.

(4) If a license granted to a physician by a member board is revoked, surrendered or relinquished in lieu of discipline, or suspended, then any license issued to the physician by any other member board shall be suspended, automatically and immediately, for ninety (90) days upon entry of the order by the disciplining board, to permit the other member board to investigate the basis for the action under the medical practice act of that state. A member board may terminate the automatic suspension of the license it issued

prior to the completion of the ninety (90) day suspension period in a manner consistent with the medical practice act of that state.

54-1853. INTERSTATE MEDICAL LICENSURE COMPACT COMMISSION. (1) The member states hereby create the interstate medical licensure compact commission.

(2) The purpose of the commission is the administration of the interstate medical licensure compact, which is a discretionary state function.

(3) The interstate commission shall be a body corporate and joint agency of the member states and shall have all the responsibilities, powers and duties set forth in the compact and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of the compact.

(4) The interstate commission shall consist of two (2) voting representatives appointed by each member state who shall serve as commissioners. In states where allopathic and osteopathic physicians are regulated by separate member boards, or if the licensing and disciplinary authority is split between multiple member boards within a member state, the member state shall appoint one (1) representative from each member board. A commissioner shall be:

- (a) An allopathic or osteopathic physician appointed to a member board;
- (b) An executive director, executive secretary or similar executive of a member board; or
- (c) A member of the public appointed to a member board.

(5) The interstate commission shall meet at least once each calendar year. A portion of this meeting shall be a business meeting to address such matters as may properly come before the commission, including the election of officers. The chairperson may call additional meetings and shall call for a meeting upon the request of a majority of the member states.

(6) The bylaws may provide for meetings of the interstate commission to be conducted by telecommunication or electronic communication.

(7) Each commissioner participating at a meeting of the interstate commission is entitled to one (1) vote. A majority of commissioners shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission. A commissioner shall not delegate a vote to another commissioner. In the absence of its commissioner, a member state may delegate voting authority for a specified meeting to another person from that state who shall meet the requirements of subsection (4) of this section.

(8) The interstate commission shall provide public notice of all meetings and all meetings shall be open to the public. The interstate commission may close a meeting, in full or in portion, where it determines by a two-thirds (2/3) vote of the commissioners present that an open meeting would be likely to:

- (a) Relate solely to the internal personnel practices and procedures of the interstate commission;
- (b) Discuss matters specifically exempted from disclosure by federal statute;
- (c) Discuss trade secrets, commercial or financial information that is privileged or confidential;
- (d) Involve accusing a person of a crime or formally censuring a person;
- (e) Discuss information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- (f) Discuss investigative records compiled for law enforcement purposes; or
- (g) Specifically relate to the participation in a civil action or other legal proceeding.

(9) The interstate commission shall keep minutes that shall fully describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, including record of any roll call votes.

(10) The interstate commission shall make its information and official records, to the extent not otherwise designated in the compact or by its rules, available to the public for inspection.

(11) The interstate commission shall establish an executive committee, which shall include officers, members and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the interstate commission, with the exception of rulemaking, during periods when the interstate commission is not in session. When acting on behalf of the interstate commission, the executive committee shall oversee the administration of the compact, including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as necessary.

(12) The interstate commission may establish other committees for governance and administration of the compact.

54-1854. POWERS AND DUTIES OF THE INTERSTATE COMMISSION. The interstate commission shall have the duty and the power to:

- (1) Oversee and maintain the administration of the compact;
- (2) Promulgate rules that shall be binding to the extent and in the manner provided for in the compact;
- (3) Issue, upon the request of a member state or member board, advisory opinions concerning the meaning or interpretation of the compact, its bylaws, rules and actions;
- (4) Enforce compliance with compact provisions, the rules promulgated by the interstate commission, and the bylaws, using all necessary and proper means including, but not limited to, the use of judicial process;
- (5) Establish and appoint committees including, but not limited, to an executive committee, which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties;
- (6) Pay or provide for the payment of the expenses related to the establishment, organization and ongoing activities of the interstate commission;
- (7) Establish and maintain one (1) or more offices;
- (8) Borrow, accept, hire or contract for services of personnel;
- (9) Purchase and maintain insurance and bonds;
- (10) Employ an executive director who shall have such powers to employ, select or appoint employees, agents or consultants, and to determine their qualifications, define their duties and fix their compensation;
- (11) Establish personnel policies and programs relating to conflicts of interest, rates of compensation and qualifications of personnel;
- (12) Accept donations and grants of money, equipment, supplies, materials and services, and receive, utilize and dispose of such items in a manner consistent with the conflict of interest policies established by the interstate commission;
- (13) Lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, whether real, personal or mixed;
- (14) Sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, whether real, personal or mixed;
- (15) Establish a budget and make expenditures;
- (16) Adopt a seal and bylaws governing the management and operation of the interstate commission;
- (17) Report annually to the legislatures and governors of the member states concerning the activities of the interstate commission during the preceding year. Such reports shall also include reports of financial audits and any recommendations that may have been adopted by the interstate commission;

- (18) Coordinate education, training and public awareness regarding the compact, its implementation and its operation;
- (19) Maintain records in accordance with the bylaws;
- (20) Seek and obtain trademarks, copyrights and patents; and
- (21) Perform such functions as may be necessary or appropriate to achieve the purposes of the compact.

54-1855. FINANCE POWERS. (1) The interstate commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the interstate commission and its staff. The total assessment must be sufficient to cover the annual budget approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated upon a formula to be determined by the interstate commission, which shall promulgate a rule binding on all member states.

(2) The interstate commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same.

(3) The interstate commission shall not pledge the credit of any of the member states, except by and with the authority of the member state.

(4) The interstate commission shall be subject to a yearly financial audit conducted by a certified or licensed public accountant and the report of the audit shall be included in the annual report of the interstate commission.

54-1856. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION. (1) The interstate commission shall, by a majority of commissioners present and voting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact within twelve (12) months of the first interstate commission meeting.

(2) The interstate commission shall elect or appoint annually from among its commissioners a chairperson, a vice-chairperson and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson, or in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the interstate commission.

(3) Officers selected pursuant to subsection (2) of this section shall serve without remuneration from the interstate commission.

(4) The officers and employees of the interstate commission shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of, or relating to, an actual or alleged act, error or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of interstate commission employment, duties or responsibilities; provided that such person shall not be protected from suit or liability for damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of such person.

(a) The liability of the executive director and employees of the interstate commission or representatives of the interstate commission, acting within the scope of such person's employment or duties for acts, errors or omissions occurring within such person's state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees and agents. The interstate commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of such person.

(b) The interstate commission shall defend the executive director, its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an interstate commission representative, shall defend such interstate commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(c) To the extent not covered by the state involved, member state or the interstate commission, the representatives or employees of the interstate commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

54-1857. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION. (1) The interstate commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the compact. Notwithstanding the foregoing, in the event the interstate commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted hereunder, then such an action by the interstate commission shall be invalid and have no force or effect.

(2) Rules deemed appropriate for the operations of the interstate commission shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act" of 2010, and subsequent amendments thereto.

(3) Not later than thirty (30) days after a rule is promulgated, any person may file a petition for judicial review of the rule in the United States district court for the District of Columbia or the federal district where the interstate commission has its principal offices, provided that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the interstate commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the authority granted to the interstate commission.

54-1858. OVERSIGHT OF INTERSTATE COMPACT. (1) The executive, legislative and judicial branches of state government in each member state shall enforce the compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of the compact and the rules promulgated hereunder shall have standing as statutory law but shall not override existing state authority to regulate the practice of medicine.

(2) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of the compact that may affect the powers, responsibilities or actions of the interstate commission.

(3) The interstate commission shall be entitled to receive all service of process in any such proceeding and shall have standing to intervene in the



proceeding for all purposes. Failure to provide service of process to the interstate commission shall render a judgment or order void as to the interstate commission, the compact or promulgated rules.

54-1859. ENFORCEMENT OF INTERSTATE COMPACT. (1) The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the compact.

(2) The interstate commission may, by majority vote of the commissioners, initiate legal action in the United States district court for the District of Columbia, or, at the discretion of the interstate commission, in the federal district where the interstate commission has its principal offices, to enforce compliance with the provisions of the compact and its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

(3) The remedies herein shall not be the exclusive remedies of the interstate commission. The interstate commission may avail itself of any other remedies available under state law or the regulation of a profession.

54-1860. DEFAULT PROCEDURES. (1) The grounds for default include, but are not limited to, failure of a member state to perform such obligations or responsibilities imposed upon it by the compact or the rules and bylaws of the interstate commission promulgated under the compact.

(2) If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under the compact, the bylaws or promulgated rules, the interstate commission shall:

(a) Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default and any action taken by the interstate commission. The interstate commission shall specify the conditions by which the defaulting state must cure its default; and

(b) Provide remedial training and specific technical assistance regarding the default.

(3) If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the commissioners and all rights, privileges and benefits conferred by the compact shall terminate on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

(4) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to terminate shall be given by the interstate commission to the governor, the majority and minority leaders of the defaulting state's legislature and each of the member states.

(5) The interstate commission shall establish rules and procedures to address licenses and physicians that are materially impacted by the termination of a member state or the withdrawal of a member state.

(6) The member state that has been terminated is responsible for all dues, obligations and liabilities incurred through the effective date of termination, including obligations, the performance of which extends beyond the effective date of termination.

(7) The interstate commission shall not bear any costs relating to any state that has been found to be in default or that has been terminated from the compact, unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting state.

(8) The defaulting state may appeal the action of the interstate commission by petitioning the United States district court for the District of Columbia or the federal district where the interstate commission has its

principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

54-1861. DISPUTE RESOLUTION. (1) The interstate commission shall attempt upon the request of a member state to resolve disputes which are subject to the compact and which may arise among member states or member boards.

(2) The interstate commission shall promulgate rules providing for both mediation and binding dispute resolution, as appropriate.

54-1862. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT. (1) Any state is eligible to become a member state of the compact.

(2) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than seven (7) states. Thereafter, it shall become effective and binding on a state upon enactment of the compact into law by that state.

(3) The governors of nonmember states or their designees shall be invited to participate in the activities of the interstate commission on a non-voting basis prior to adoption of the compact by all states.

(4) The interstate commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the interstate commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

54-1863. WITHDRAWAL. (1) Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

(2) Withdrawal from the compact shall be by the enactment of a statute repealing the same, but shall not take effect until one (1) year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member state.

(3) The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing the compact in the withdrawing state.

(4) The interstate commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt of notice as provided under subsection (3) of this section.

(5) The withdrawing state is responsible for all dues, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

(6) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the interstate commission.

(7) The interstate commission is authorized to develop rules to address the impact of the withdrawal of a member state on licenses granted in other member states to physicians who designated the withdrawing member state as the state of principal license.

54-1864. DISSOLUTION. (1) The compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one (1) member state.

(2) Upon the dissolution of the compact, the compact becomes null and void and shall be of no further force or effect. The business and affairs of the interstate commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

54-1865. SEVERABILITY AND CONSTRUCTION. (1) The provisions of the compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(2) The provisions of the compact shall be liberally construed to effectuate its purposes.

(3) Nothing in the compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

54-1866. BINDING EFFECT OF COMPACT AND OTHER LAWS. (1) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the compact.

(2) All laws in a member state in conflict with the compact are superseded to the extent of the conflict.

(3) All lawful actions of the interstate commission, including all rules and bylaws promulgated by the commission, are binding upon the member states.

(4) All agreements between the interstate commission and the member states are binding in accordance with their terms.

(5) In the event any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

Approved March 25, 2015

CHAPTER 106  
(H.B. No. 161)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-1401, IDAHO CODE, TO PROVIDE THAT CERTAIN VIOLATIONS SHALL BE AN INFRACTION; AMENDING SECTION 36-1402, IDAHO CODE, TO PROVIDE PENALTIES FOR CERTAIN INFRACTIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 36-1404, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 36-1101, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. 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)7.(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.

(K) Fail to purchase a muzzleloader permit as set forth in section 36-409(f), Idaho Code.

(L) Fail to purchase an archery permit as set forth in section 36-409(e), 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.

(S) Fail to purchase sage grouse or sharp-tailed grouse hunting permit when hunting for sage grouse or sharp-tailed grouse anywhere within the state, except licensed shooting preserves.

(T) Fail to wear at least thirty-six (36) square inches of visible hunter orange above the waist when hunting on wildlife management areas where pheasants are stocked.

(U) Take upland game birds, except wild turkey, from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise. Wild turkey shall not be taken between sunset and one-half (1/2) hour before sunrise. Upland game birds shall not be taken before

10 a.m. during the pheasant season on the Fort Boise, Montour, Payette river and C.J. Strike wildlife management areas.

(V) Public use restrictions. Activities prohibited unless specifically authorized by the commission or under lease, permit, contract or agreement issued by the director, regional supervisor or other authorized agent:

(i) Use watercraft on any waters that are posted against such use;

(ii) Conduct dog field trials of any type during the period of October 1 through July 31. All dog field trials and dog training with the use of artificially propagated game birds between August 1 and September 30 will be under department permit as authorized by the director;

(iii) Construct blinds, pits, platforms or tree stands where the soil is disturbed, trees are cut or altered, and artificial fasteners, such as wire, rope or nails are used. All blinds shall be available to the public on a first-come-first-served basis. Portable manufactured blinds and tree stands are allowed but may not be left overnight;

(iv) Shoot within, across or into posted safety zones;

(v) Leave decoys unattended. Decoys cannot be put in place any earlier than two (2) hours prior to official shooting hours for waterfowl and all decoys must be picked up and removed from the hunting site no later than two (2) hours after official shooting hours for waterfowl that particular day;

(vi) Discharge any paintball guns;

(vii) Place a geocache;

(viii) Use for group events of over fifteen (15) people;

(ix) Use or transport any hay, straw or mulch that is not weed seed free certified.

(W) Evidence of species. In seasons restricted to mule deer only or white-tailed deer only, if the head is removed, the fully-haired tail must be left naturally attached to the carcass.

(X) Continue to fish on Henry's lake after reaching limit.

(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 2. That Section 36-1402, Idaho Code, be, and the same is hereby amended to read as follows:

36-1402. PENALTY -- INFRACTION -- MISDEMEANOR -- FELONY -- REVOCATION OF LICENSE -- DISPOSITION OF MONEYS. (a) Infraction Penalty. Except as provided for in subsection (b) of this section, aAny person who pleads guilty to or is found guilty of an infraction of this code or rules or proclamations promulgated pursuant thereto, shall be punished in accordance with the provisions of the Idaho infractions rules subject to a fine of seventy-two dollars (\$72.00).

(b) A violation of section 36-1401(a)1.(K) through (L) or (a)2.(S) through (Y), Idaho Code, shall constitute an infraction subject to a fine of two hundred fifty dollars (\$250).

(c) Misdemeanor Penalty. Any person entering a plea of guilty for, found guilty of or convicted of a misdemeanor under the provisions of this title or rules or proclamations promulgated pursuant thereto shall, except in cases where a higher penalty is prescribed, be fined in a sum of not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000) and/or by commitment to jail for not more than six (6) months. The minimum fine, per animal, fish or bird, for the illegal taking, illegal possession or the illegal waste of the following animals, fish or birds shall be as indicated below:

Animal, Fish or Bird	Minimum Fine
Bighorn sheep, mountain goat and moose	\$500
Elk	\$300
Any other big game animal	\$200
Wild turkey, swan and sturgeon	\$200
Chinook salmon, wild steelhead and bull trout	\$100
Any other game bird, game fish or furbearer	\$ 25

(ed) Felony Penalty. Any person entering a plea of guilty for, found guilty of or convicted of a felony under the provisions of this title shall be punished in accordance with section 18-112, Idaho Code. Provided further, that the judge hearing the case shall forthwith revoke for life, the hunting, fishing or trapping license and privileges of any person who, within a five (5) year period, pleads guilty to, is found guilty of or is convicted of three (3) or more felony violations of the provisions of this title.

(de) License Revocation. Any person entering a plea of guilty or being found guilty or convicted of violating any of the provisions of this title, or who otherwise fails to comply with the requirements of a citation in connection with any such offense, may, in addition to any other penalty assessed by the court, have his hunting, fishing, or trapping privileges revoked for such period of time as may be determined by the court not to exceed three (3) years, except that violations classified as felonies under section 36-1401, Idaho Code, or as flagrant violations as defined in subsection (ef) of this section, shall authorize the court to impose license revocations for periods of time up to and including life, with said period beginning on the date of conviction, finding of guilt or the entry of the plea of guilty. Provided further, that the magistrate hearing the case shall forthwith revoke the hunting, fishing, or trapping privileges for a period of not less than one (1) year for any of the following offenses:

1. Taking or possessing upland game birds, migratory waterfowl, salmon, steelhead, sturgeon, or any big game animal during closed season.
2. Exceeding the daily bag or possession limit of upland game birds, migratory waterfowl or big game animals.

3. Taking any fish by unlawful methods as set forth in section 36-902(a) or (c), Idaho Code.
4. Unlawfully purchasing, possessing or using any license, tag or permit as set forth in section 36-405(c), Idaho Code.
5. Trespassing in violation of warning signs or failing to depart the real property of another after notification as set forth in section 36-1603, Idaho Code.
6. The unlawful release of any species of live fish into any public body of water in the state. For purposes of this paragraph, an "unlawful release of any species of live fish" shall mean a release of any species of live fish, or live eggs thereof, in the state without the permission of the director of the department of fish and game; provided, that no permission is required when fish are being freed from a hook and released at the same time and place where caught or when crayfish are being released from a trap at the same time and place where caught.

Provided further, that the magistrate hearing the case of a ~~first-time~~ first-time hunting violation offender under the age of twenty-one (21) years may require that the offender attend a remedial hunter education course at the offender's expense. Upon successful completion of the course, the remainder of the revocation period shall be subject to a withheld judgment so long as the offender is not convicted of any additional hunting violations during the period. The cost of the course shall be seventy-five dollars (\$75.00) to be paid to the department. The commission shall establish by rule the curriculum of the hunter education remedial course.

The revocation shall consist of cancellation of an existing license for the required length of time and/or denial of the privilege of purchasing an applicable license for the length of time required to meet the revocation period decreed. In the case of persons pleading guilty, convicted or found guilty of committing multiple offenses, the revocation periods may run consecutively. In the case of pleas of guilty, convictions or findings of guilt involving taking big game animals during closed season or exceeding the daily bag or possession limit of big game, the magistrate hearing the case shall revoke the hunting, fishing or trapping privileges of any person convicted or found guilty of those offenses for a period of not less than one (1) year for each big game animal illegally taken or possessed by the person convicted or found guilty.

It shall be a misdemeanor for any person to hunt, fish, or trap or purchase a license to do so during the period of time for which such privilege is revoked.

For the purpose of this title, the term "conviction" shall mean either a withheld judgment or a final conviction.

(ef) Flagrant Violations. In addition to any other penalties assessed by the court, the magistrate hearing the case shall forthwith revoke the hunting, fishing or trapping privileges, for a period of not less than one (1) year and may revoke the privileges for a period up to and including the person's lifetime, for any person who enters a plea of guilty, who is found guilty, or who is convicted of any of the following flagrant violations:

1. Taking a big game animal after sunset by spotlighting, with use of artificial light, or with a night vision enhancement device.
2. Unlawfully taking two (2) or more big game animals within a twelve (12) month period.
3. Taking a big game animal with a rimfire or centerfire cartridge firearm during an archery or muzzleloader only hunt.
4. Hunting, fishing, trapping or purchasing a license when license privileges have been revoked pursuant to this section or section 36-1501, Idaho Code.
5. Taking any big game animal during a closed season.
6. Any felony violation provided in section 36-1401, Idaho Code.

(fg) For purposes of the wildlife violator compact, section 36-2301, Idaho Code, et seq., the department shall:

1. Suspend a violator's license for failure to comply with the terms of a citation from a party state. A copy of a report of failure to comply from the licensing authority of the issuing state shall be conclusive evidence.
2. Revoke a violator's license for a conviction in a party state. A report of conviction from the licensing authority of the issuing state shall be conclusive evidence.

(gh) Disposition of Fines and Forfeitures. Distribution of fines and forfeitures remitted shall be in accordance with section 19-4705, Idaho Code.

SECTION 3. That Section 36-1404, Idaho Code, be, and the same is hereby amended to read as follows:

36-1404. UNLAWFUL KILLING, POSSESSION OR WASTE OF WILD ANIMALS, BIRDS AND FISH -- REIMBURSABLE DAMAGES -- SCHEDULE -- ASSESSMENT BY MAGISTRATES -- INSTALLMENT PAYMENTS -- DEFAULT JUDGMENTS -- DISPOSITION OF MONEYS. (a) In addition to the penalties provided for violating any of the provisions of title 36, Idaho Code, any person who pleads guilty, is found guilty of or is convicted of the illegal killing or the illegal possession or illegal waste of game animals or birds or fish shall reimburse the state for each animal so killed or possessed or wasted as follows:

1. Elk, seven hundred fifty dollars (\$750) per animal killed, possessed or wasted.
2. Caribou, bighorn sheep, mountain goat and moose, one thousand five hundred dollars (\$1,500) per animal killed, possessed or wasted.
3. Any other species of big game, four hundred dollars (\$400) per animal killed, possessed or wasted.
4. Wild turkey and swan, two hundred fifty dollars (\$250) per bird killed, possessed or wasted.
5. Sturgeon, chinook salmon, and wild steelhead, two hundred fifty dollars (\$250) per fish killed, possessed or wasted.
6. Bull trout, one hundred fifty dollars (\$150) per fish killed, possessed or wasted.
7. Any other game bird, game fish or furbearer, fifty dollars (\$50.00) per animal killed, possessed or wasted.

Provided further, that any person who pleads guilty, is found guilty of, or is convicted of a flagrant violation, in accordance with section 36-1402(ef), Idaho Code, involving the illegal killing, illegal possession or illegal waste of a trophy big game animal as defined in section 36-202(h), Idaho Code, shall reimburse the state for each animal so killed, possessed or wasted, as follows:

1. Trophy mule deer: two thousand dollars (\$2,000) per animal killed, possessed or wasted;
2. Trophy white-tailed deer: two thousand dollars (\$2,000) per animal killed, possessed or wasted;
3. Trophy elk: five thousand dollars (\$5,000) per animal killed, possessed or wasted;
4. Trophy bighorn sheep: ten thousand dollars (\$10,000) per animal killed, possessed or wasted;
5. Trophy moose: ten thousand dollars (\$10,000) per animal killed, possessed or wasted;
6. Trophy mountain goat: ten thousand dollars (\$10,000) per animal killed, possessed or wasted;



7. Trophy pronghorn antelope: two thousand dollars (\$2,000) per animal killed, possessed or wasted;

8. Trophy caribou: ten thousand dollars (\$10,000) per animal killed, possessed or wasted.

For each additional animal of the same category killed, possessed or wasted during any twelve (12) month period, the amount to be reimbursed shall double from the amount for each animal previously illegally killed, possessed or wasted. For example, the reimbursable damages for three (3) elk illegally killed during a twelve (12) month period would be five thousand two hundred fifty dollars (\$5,250), calculated as follows: seven hundred fifty dollars (\$750) for the first elk; one thousand five hundred dollars (\$1,500) for the second elk; and three thousand dollars (\$3,000) for the third elk. In the case of three (3) trophy elk illegally killed in a twelve (12) month period, the reimbursable damages would be thirty-five thousand dollars (\$35,000) calculated as follows: five thousand dollars (\$5,000) for the first elk, ten thousand dollars (\$10,000) for the second elk, and twenty thousand dollars (\$20,000) for the third elk. Provided however, that wildlife possessing a fifty dollar (\$50.00) reimbursement value shall be figured at the same rate per each animal in violation, without compounding.

(b) In every case of a plea of guilty, a finding of guilt or a conviction of unlawfully releasing any fish species into any public body of water in the state, the court before whom the plea of guilty, finding of guilt, or conviction is obtained shall enter judgment ordering the defendant to reimburse the state for the cost of the expenses, not to exceed ten thousand dollars (\$10,000), incurred by the state to correct the damage caused by the unlawful release. For purposes of this subsection, "unlawfully releasing any fish species" shall mean a release of any species of live fish, or live eggs thereof, in the state without the permission of the director of the department of fish and game; provided, that no permission is required when fish are being freed from a hook and released at the same time and place where caught or when crayfish are being released from a trap at the same time and place where caught.

(c) In every case of a plea of guilty, a finding of guilt or a conviction, the court before whom such plea of guilty, finding of guilt or conviction is obtained shall enter judgment ordering the defendant to reimburse the state in a sum or sums as hereinbefore set forth including postjudgment interest. If two (2) or more defendants are convicted of the illegal taking, killing or the illegal possession or wasting of the game animal, bird or fish, such judgment shall be declared against them jointly and severally.

(d) The judgment shall fix the manner and time of payment, and may permit the defendant to pay the judgment in installments at such times and in such amounts as, in the opinion of the court, the defendant is able to pay. In no event shall any defendant be allowed more than two (2) years from the date judgment is entered to pay the judgment.

(e) A defaulted judgment or any installment payment thereof may be collected by any means authorized for the enforcement of a judgment under the provisions of the Idaho Code.

(f) All courts ordering such judgments of reimbursement shall order such payments to be made to the department, which shall deposit them with the state treasurer, and the treasurer shall place them in the state fish and game account.

(g) The court shall retain jurisdiction over the case. If at any time the defendant is in arrears ninety (90) days or more, the court may revoke the defendant's hunting, fishing or trapping privileges until the defendant completes payment of the judgment.

SECTION 4. That Section 36-1101, Idaho Code, be, and the same is hereby amended to read as follows:

36-1101. TAKING OF WILDLIFE UNLAWFUL EXCEPT BY STATUTE OR COMMISSION RULE OR PROCLAMATION -- METHODS PROHIBITED -- EXCEPTIONS. (a) It is unlawful, except as may be otherwise provided by Idaho law, including this title or commission rules or proclamations promulgated pursuant thereto, for any person to take any of the game animals, birds or ~~fur-bearing~~ furbearing animals of this state.

(b) Except as may be otherwise provided under this title or commission rules or proclamations promulgated pursuant thereto, it is unlawful for any person to:

1. Hunt from Motorized Vehicles. Hunt any of the game animals or game birds of this state from or by the use of any motorized vehicle except as provided by commission rule; provided however, that the commission shall promulgate rules which shall allow a physically disabled person to apply for a special permit which would allow the person to hunt from a motorized vehicle which is not in motion. A physically disabled person means a person who has lost the use of one (1) or both lower extremities or both hands, or is unable to walk two hundred (200) feet or more unassisted by another person, or is unable to walk two hundred (200) feet or more without the aid of a walker, cane, crutches, braces, prosthetic device or a wheelchair, or is unable to walk two hundred (200) feet or more without great difficulty or discomfort due to one (1) or more of the following impairments: neurological, orthopedic, respiratory, cardiac, arthritic disorder, blindness, or the loss of function or absence of a limb.

The commission shall specify the form of application for and design of the special permit which shall allow a physically disabled person to hunt from a motorized vehicle which is not in motion. No fee shall be charged for the issuance of the special permit and the issuance of a special permit shall not exempt a person from otherwise properly purchasing or obtaining other necessary licenses, permits and tags in accordance with this title and rules promulgated pursuant thereto. The special permit shall not be transferable and may only be used by the person to whom it is issued. A person who has been issued a special permit which allows a physically disabled person to hunt from a motorized vehicle not in motion shall have that permit prominently displayed on any vehicle the person is utilizing to hunt from and the person shall produce, on demand, the permit and other identification when so requested by a conservation officer of the department of fish and game. A person possessing a special permit shall not discharge any firearm from or across a public highway. In addition to other penalties, any unauthorized use of the special permit shall be grounds for revocation of the permit.

2. Molest with Motorized Vehicles. Use any motorized vehicle to molest, stir up, rally or drive in any manner any of the game animals or game birds of this state.

3. Communicate from Aircraft. Make use of aircraft in any manner to spot or locate game animals, game birds or ~~fur-bearing~~ furbearing animals of this state from the air and communicate the location or approximate location thereof by any signals whatsoever, whether radio, visual or otherwise, to any person then on the ground.

4. Hunt from Helicopter. Make use of any helicopter in any manner in the taking of game or loading, transporting, or unloading hunters, game or hunting gear in any manner except when such use is at recognized airports or airplane landing fields, or at heliports which have been previously established on private land or which have been established by a department or agency of the federal, state or local government or when said use is in the course of emergency or search and rescue operations. Provided however, that nothing in this chapter shall limit

or prohibit the lawful control of wolves or predatory or unprotected animals through the use of helicopters when such measures are deemed necessary by federal or state agencies in accordance with existing laws or management plans.

5. Hunt with Aid of Aircraft. Make use of any aircraft to locate any big game animal for the purpose of hunting those animals during the same calendar day those animals were located from the air. Provided however, that nothing in this chapter shall limit or prohibit the lawful control of wolves or predatory or unprotected wildlife through the use of aircraft when such measures are deemed necessary by federal or state agencies in accordance with existing laws or management plans.

6. Artificial Light. Hunt any animal or bird except raccoon by the aid of a spotlight, flashlight or artificial light of any kind. The act of casting or throwing, after sunset, the beam or rays of any spotlight, headlight or other artificial light capable of utilizing six (6) volts or more of electrical power upon any field, forest or other place by any person while having in his possession or under his control any uncased firearm or contrivance capable of killing any animal or bird, shall be prima facie evidence of hunting with an artificial light. Provided nothing in this subsection shall apply where the headlights of a motor vehicle, operated and proceeding in a normal manner on any highway or roadway, cast a light upon animals or birds on or adjacent to such highway or roadway and there is no intent or attempt to locate such animals or birds. Provided further, nothing in this subsection shall prevent the hunting of unprotected or predatory wildlife with the aid of artificial light when such hunting is for the purpose of protecting property or livestock, is done by landowners or persons authorized in writing by them to do so and is done on property they own, lease or control; and provided further that the hunting and taking of unprotected or predatory wildlife with the aid of artificial light on public lands is authorized after obtaining a permit to do so from the director. The director may, for good cause, refuse to issue such permit.

Other provisions of this subsection notwithstanding, the commission may establish rules allowing the hunting of raccoon with the aid of an artificial light.

7. Regulation of Dogs.

(A) No person shall make use of a dog for the purpose of pursuing, taking or killing any of the big game animals of this state except as otherwise provided by rules of the commission.

(B) Any person who is the owner of, or in possession of, or who harbors any dog found running at large and which is actively tracking, pursuing, harassing or attacking, or which injures or kills deer or any other big game animal within this state shall be guilty as provided in section 36-1401(a)1.(F), Idaho Code. It shall be no defense that such dog or dogs were pursuing said big game animals without the aid or direction of the owner, possessor, or harborer.

(C) Any dog found running at large and which is actively tracking, pursuing, harassing, attacking or killing deer or any other big game animal may be destroyed without criminal or civil liability by the director, or any peace officer, or other persons authorized to enforce the Idaho fish and game laws.

8. Attempt to ~~Take~~ Simulated Wildlife.

(A) Attempt to take, by firearm or any other contrivance capable of killing an animal or bird, simulated wildlife in violation of any of the provisions of this title or commission rules applicable to the taking of the wildlife being simulated, when the simulated wildlife is being used by a conservation officer or other person authorized to enforce Idaho fish and game laws or rules promulgated pursuant thereto. No person shall be found guilty of vio-

lating either this subparagraph, or subparagraph (B) of this paragraph, provided that no other law or rule has been violated.

(B) Any person pleading guilty to, convicted of or found guilty for attempting to take simulated wildlife within this state shall be guilty of a misdemeanor and shall be punished as provided in either subsection (bc) or (de) of section 36-1402, Idaho Code, and shall pay restitution in an amount of no less than fifty dollars (\$50.00) for the repair or replacement of the simulated wildlife.

9. Devices Accessed via Internet.

(A) No person shall shoot at or kill any bird or animal in Idaho, wild or domestic, including domestic cervidae governed under the provisions of chapter 37, title 25, Idaho Code, with any gun or other device accessed and controlled via an internet connection. Accessing, regulating access to, or regulating the control of a device capable of being operated in violation of this paragraph shall be prima facie evidence of an offense under this paragraph.

(B) Any person pleading guilty to, convicted of or found guilty of a violation of this paragraph shall be guilty of a misdemeanor and shall be punished as provided in section 36-1402, Idaho Code.

Approved March 25, 2015

CHAPTER 107  
(H.B. No. 166)

AN ACT

RELATING TO IRRIGATION DISTRICTS; AMENDING SECTION 43-322, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE INCURSION OF DEBT BY A DISTRICT AND TO REVISE THE MAXIMUM TERM OF INDEBTEDNESS; AND AMENDING CHAPTER 3, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-322A, IDAHO CODE, TO PROVIDE FOR RESOLUTIONS FOR THE DEVELOPMENT AND OPERATION OF MITIGATION PLANS AND RECHARGE PROJECTS, TO PROVIDE THAT THE AMOUNT OF OBLIGATION OR CONTRACT INDEBTEDNESS PROPOSED TO BE ISSUED BE SET FORTH, TO PROVIDE THAT THE CONTRACT INDEBTEDNESS IN A PROPOSED RESOLUTION BE SUBMITTED TO A VOTE IF CERTAIN CONDITIONS ARE MET, TO PROVIDE FOR ELECTIONS, TO PROVIDE FOR THE CONTENT OF RESOLUTIONS, TO PROVIDE CRITERIA WHEREBY THE DISTRICT SHALL BE AUTHORIZED TO INCUR INDEBTEDNESS OR OBLIGATIONS OR ENTER INTO CERTAIN CONTRACTS, TO PROVIDE THAT CERTAIN ACTION SHALL BE SUBJECT TO JUDICIAL EXAMINATION, TO PROVIDE THAT SUBMISSION OF THE PROPOSITION OF INCURRING OBLIGATION OR OTHER INDEBTEDNESS AT AN ELECTION SHALL NOT PREVENT SUBMISSION OF THE SAME OR OTHER PROPOSITIONS AT SUBSEQUENT ELECTIONS, TO PROVIDE FOR PETITIONS FOR JUDICIAL EXAMINATION, TO PROVIDE FOR CONTENT OF PETITION, TO PROVIDE THAT OTHER DISTRICTS MAY JOIN IN THE FILING OF PETITIONS, TO PROVIDE FOR JURISDICTION OF THE COURT, TO PROVIDE FOR JUDICIAL EXAMINATION AND DETERMINATION OF SPECIFIED MATTERS, TO PROVIDE FOR NOTICE, TO PROVIDE FOR ANSWERS TO PETITIONS, TO PROVIDE FOR THE AFFECT OF FAILING TO APPEAR, TO PROVIDE FOR ACTION BY THE COURT, TO PROVIDE FOR COSTS, TO PROVIDE FOR REVIEW OF JUDGMENTS AND TO PROVIDE THAT THE COURT SHALL DISREGARD ANY ERROR, IRREGULARITY OR OMISSION WHICH DOES NOT AFFECT THE SUBSTANTIAL RIGHTS OF PARTIES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 43-322, Idaho Code, be, and the same is hereby amended to read as follows:

43-322. POWER TO INCUR DEBTS -- WARRANTS. The board of directors, or other officers of the district, shall have no power to incur any debt or liability whatever, either by issuing bonds or otherwise, in excess of the express provisions of this section; and any debt or liability incurred in excess of such express provisions shall be and remain absolutely void: provided, that for the purpose of organization, or for any of the purposes of this title, the board of directors may, before the collection of the first assessment, incur indebtedness and cause warrants of the district to issue therefor according to the following limitations: Districts embracing fifty thousand (50,000) acres, or more, of irrigable land, not in excess of fifteen thousand dollars (\$15,000) of warrants; districts embracing forty thousand (40,000) acres, or more, and less than fifty thousand (50,000) acres of irrigable land, up to twelve thousand dollars (\$12,000) of warrants; districts embracing thirty thousand (30,000) acres, or more, and less than forty thousand (40,000) acres of irrigable land, up to nine thousand dollars (\$9,000) of warrants; districts embracing twenty thousand (20,000) acres, or more, and less than thirty thousand (30,000) acres of irrigable land, up to six thousand dollars (\$6,000) of warrants; districts embracing ten thousand (10,000) acres, or more, and less than twenty thousand (20,000) acres of irrigable land, up to four thousand dollars (\$4,000) of warrants; districts embracing more than two thousand (2,000) acres, or more, and less than ten thousand (10,000) acres of irrigable land up to three thousand dollars (\$3,000) of warrants, and districts embracing less than two thousand (2,000) acres of irrigable land up to two thousand dollars (\$2,000) of warrants.

Provided, further, that for the purpose of defraying the expenses in the care, operation, repair and improvement of such portion of the irrigation works of the district as are completed and in use, including salaries of officers and employees, the board of directors of an irrigation district may at any time issue warrants of such district in payment of claims of indebtedness against the district, not to exceed the district's anticipated revenue.

The warrants herein authorized shall be in form and substance the same as county warrants or as near the same as may be practicable and shall be signed by the chairman and attested by the secretary of said board. All such warrants shall be presented by the holder thereof to the treasurer of the district for payment who shall indorse thereon the day of presentation for payment with the additional indorsement thereon, in case of nonpayment, that they are not paid for want of funds, and such warrants shall draw interest at a rate to be established by the board of directors from the date of their presentation to the treasurer for payment as aforesaid until such warrants are paid. No warrants shall be issued in payment of any indebtedness of such district for less than face or par value. It shall be the duty of the treasurer from time to time when he has sufficient funds in his hands for that purpose to advertise in some newspaper in the county in which the district is situated requiring the presentation to him for payment of as many of the outstanding warrants as he may be able to pay. Ten (10) days after the first publication of said notice by the treasurer calling in any of said outstanding warrants, said warrants shall cease to bear interest, which shall be stated in the notice. Said notice shall be published two (2) weeks consecutively and said warrants shall be called in and paid in the order of their indorsement.

Provided, further, after an irrigation district has organized and has no warrants outstanding, the district may maintain its operation on a cash basis and pay by check the expenses of operation and maintenance, repair, improvement, obligations on contractual or bonded indebtedness, and all other general necessary expenses incurred by the district.

The board of directors, or other officers of the district, may incur debt by contracting indebtedness with a money-lending institution, subject to the election requirements contained in section 43-401, Idaho Code, or as described in section 42-322A, Idaho Code, but the term of such indebtedness shall not exceed ~~twenty~~ thirty (230) years.

SECTION 2. That Chapter 3, 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 43-322A, Idaho Code, and to read as follows:

43-322A. POWER TO INCUR DEBTS -- MITIGATION PLANS AND RECHARGE PROJECTS -- JUDICIAL EXAMINATION. (1) The board may by resolution adopted by a two-thirds (2/3) majority of the board, determine that the interest of the district and the public interest and necessity demand the development and operation of a mitigation plan or recharge project and shall set forth the amount of obligation or contract indebtedness proposed to be issued by the district under the provisions of this chapter for the development of such mitigation plan or recharge project. The board shall submit the contract indebtedness in the proposed resolution to a vote of the qualified electors of the district as defined in section 43-111, Idaho Code, at an election to be held only if within fifteen (15) days after the passage of such resolution a referendum petition signed by qualified electors of the district whose aggregate water rights equal not less than ten percent (10%), calculated on a per acre basis, of the aggregate water rights of all qualified electors of the district, shall be filed with the secretary of the district requesting that an election upon the issuance of the contract indebtedness be held and conducted under the provisions of this section. Any election required to be held pursuant to a referendum petition filed in accordance with this section for the purpose of submitting any proposition or propositions of incurring such obligation or indebtedness shall be held in accordance with section 34-106, Idaho Code. The resolution, in addition to such declaration of public interest or necessity, shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated cost of the mitigation plan or recharge plan, the amount of principal of the indebtedness to be incurred therefor, and the sources of the revenues and assessments pledged to the payment of the indebtedness. The separate election upon the assessments shall be held at the same time as and shall be combined with any such election required to be held upon the indebtedness question pursuant to a referendum petition. If no referendum petition is filed, or if so filed, if it shall appear from the returns that the qualified electors of the district representing two-thirds (2/3) of the aggregate water rights of the district, calculated on a per acre basis, have voted in favor of the proposition, the district thereupon shall be authorized to incur such indebtedness or obligations, or enter into such contracts, all for the purposes provided for in the proposition submitted in the resolution, and in the amount so provided subject to judicial examination as provided in subsection (2) of this section. Submission of the proposition of incurring such obligation or other indebtedness at such an election shall not prevent or prohibit submission of the same or other propositions at subsequent election or elections called for such purpose.

(2) Prior to the incurring of indebtedness, the board of directors of the irrigation district shall file in the district court of the county in which their office is situated a petition, praying in effect that the proceedings aforesaid may be examined, approved and confirmed by the court. The petition shall state generally that the irrigation district was duly organized and the first board of directors elected, that due and lawful proceedings were taken to authorize the incurrence of indebtedness by the issuance of bonds or otherwise for mitigation plans or recharge projects in an amount to be stated, and that said assessment, list and apportionment

were duly made and a copy of said assessment, list and apportionment shall be attached to said petition. Whenever any district that is required to file a petition hereunder has or proposes to enter into a contract or contracts with one (1) or more districts or ground water district, the boards of such other districts or ground water districts may join in the filing of such petition, and the district court in which such petition is filed shall have jurisdiction to hear the petition and to grant the relief prayed for therein. Each such petition shall pray for a judicial examination and determination of any power conferred hereby or by any amendment hereto or of any assessment levied or of any apportionment of costs or of any act, proceeding or contract of the district or districts, whether or not said contracts shall have been executed, including, without limitation, proposed contracts for the reconstruction, rehabilitation, replacement and improvement of any well and other related structures and works and appurtenances, falling water contracts, contracts with other districts and contracts with other public and private persons, firms, corporations and associations associated with mitigation plans or recharge projects. Such petition shall set forth the facts whereon the validity of such powers, assessments, apportionments, acts, proceedings or contracts is founded. Notice of the filing of said petition shall be given by the clerk of the court in accordance with the requirements of section 43-407, Idaho Code, stating in brief outline the contents of the petition and showing where a full copy of any contract or contracts, therein mentioned, may be examined.

(3) Any water user in any district joining in the petition or any other person interested in the contracts or proposed contracts may appear and answer the petition at any time prior to the date fixed for the hearing or within such further time as may be allowed by the court; and the petition shall be taken as confessed by all persons who fail so to appear. The said petition and notice shall be sufficient to give the court jurisdiction and, upon hearing, the court: shall examine into and determine all matters and things affecting the question submitted; shall examine all of the proceedings of all of the districts as set forth in the petition; shall hear all objections either filed in the proceeding or brought up from the hearings before any of the boards; shall correct all errors in the assessments and apportionments of costs; shall ratify, approve and confirm all apportionments of costs and assessments levied; shall make such findings with reference thereto and render a judgment and decree thereon approving and confirming all of the powers, assessments, apportionments, acts, proceedings and contracts of each of the districts as set forth in the petition as the case warrants. Costs may be divided or apportioned among the contesting parties in the discretion of the trial court. Review of the judgment of the court may be had as in other similar cases. The court shall disregard any error, irregularity or omission which does not affect the substantial rights of the parties.

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 25, 2015

CHAPTER 108  
(H.B. No. 169)

AN ACT

RELATING TO EDUCATION; REPEALING SECTION 33-1275, IDAHO CODE, AS ENACTED BY SECTION 2, CHAPTER 329, LAWS OF 2013, RELATING TO FACT-FINDERS, APPOINTMENT AND HEARINGS; AND AMENDING SECTION 1, CHAPTER 143, LAWS OF 2014, TO REMOVE A SUNSET DATE AND TO REMOVE AN EFFECTIVE DATE.

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

SECTION 1. That Section 33-1275, Idaho Code, as enacted by Section 2, Chapter 329, Laws of 2013, be, and the same is hereby repealed.

SECTION 2. That Section 1, Chapter 143, Laws of 2014, be, and the same is hereby amended to read as follows:

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval, and retroactively to November 21, 2012. ~~The provisions of Section 1 of this act shall be null, void and of no force and effect on and after July 1, 2015. The provisions of Section 2 of this act shall be in full force and effect on and after July 1, 2015.~~

Approved March 24, 2015

CHAPTER 109  
(H.B. No. 223)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF ENERGY RESOURCES FOR FISCAL YEAR 2016; 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 Office of Energy Resources, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
Indirect Cost Recovery					
Fund	\$72,700	\$32,900			\$105,600
Renewable Energy Resources					
Fund	184,200	38,800			223,000
Miscellaneous Revenue					
Fund	10,100	10,100			20,200
Petroleum Price Violation					
Fund	228,800	205,300	\$4,700		438,800



	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant					
Fund	<u>263,400</u>	<u>194,000</u>	<u>0</u>	<u>\$270,000</u>	<u>727,400</u>
TOTAL	\$759,200	\$481,100	\$4,700	\$270,000	\$1,515,000

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Office of Energy Resources is authorized no more than eight (8) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 25, 2015

CHAPTER 110  
(S.B. No. 1001)

AN ACT

RELATING TO WORKPLACE SAFETY; AMENDING SECTION 67-2312, IDAHO CODE, TO PROVIDE THAT THE DIVISION OF BUILDING SAFETY IS SOLELY VESTED WITH THE RIGHT OF ENTRY AND INSPECTION OF PUBLIC BUILDINGS; AMENDING SECTION 67-2317, IDAHO CODE, TO PROVIDE THAT THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY MAY CONDUCT HEARINGS; AMENDING SECTION 67-2318, IDAHO CODE, TO PROVIDE THAT THE GOVERNOR MAY ORDER THE USE OF EMERGENCY EXPENDITURES FOR COMPLIANCE WITH THE ADMINISTRATOR'S DECISIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-2601A, IDAHO CODE, TO PROVIDE THAT THE ADMINISTRATOR SHALL CONDUCT SAFETY INSPECTIONS AND SAFETY TRAINING PROGRAMS FOR LOGGING OPERATIONS, TO PROVIDE THAT THE ADMINISTRATOR MAY CONDUCT SAFETY INSPECTIONS OF PUBLIC BUILDINGS UPON REQUEST AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 72-519, IDAHO CODE, TO PROVIDE THAT THE DIVISION OF BUILDING SAFETY MAY USE MONEY FROM THE INDUSTRIAL ADMINISTRATION FUND TO CONDUCT SAFETY INSPECTIONS AND TRAINING; REPEALING SECTION 72-720, IDAHO CODE, RELATING TO SAFETY POWERS OF THE INDUSTRIAL COMMISSION; REPEALING SECTION 72-721, IDAHO CODE, RELATING TO SAFETY RULES OF THE INDUSTRIAL COMMISSION; REPEALING SECTION 72-722, IDAHO CODE, RELATING TO UNSAFE CONDITIONS; REPEALING SECTION 72-723, IDAHO CODE, RELATING TO SAFETY ORDER VIOLATIONS; AND AMENDING SECTION 39-4113, IDAHO CODE, TO REMOVE A CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-2312, Idaho Code, be, and the same is hereby amended to read as follows:

67-2312. PUBLIC BUILDINGS SUBJECT TO SAFETY INSPECTION. ~~In addition to the powers and duties with respect to matters of industrial safety now or hereafter vested in the industrial commission and the division of building safety, the commission and the division of building safety are each is~~ vested with the right of entry and inspection of all public buildings now or hereafter owned or maintained by the state or any official, department, board, commission or agency thereof, for the purpose of ascertaining unsafe

or hazardous conditions therein, or in the immediate environs thereof, not only to the state's employees but to inmates therein, attendants thereat, and to the general public.

SECTION 2. That Section 67-2317, Idaho Code, be, and the same is hereby amended to read as follows:

67-2317. HEARING AND DECISION OF DISPUTED ISSUES. Upon the failure or refusal of the official or agency in charge of any state public building to comply with the recommendations of the administrator of the division of building safety, the administrator shall apply to the industrial commission to may hold a hearing, pursuant to the procedural provisions for contested cases under the administrative procedure act, of as provided in sections 72-722 67-5240 et seq., Idaho Code, ~~so far as the same may be applicable.~~

~~The industrial commission administrator~~ is empowered to conduct such hearing and render a decision ~~as in cases of disputes in matters involving industrial safety.~~ The commission administrator shall transmit a copy of its the decision to the official or agency in direct control of the public building, ~~to the division of building safety,~~ and to the governor.

SECTION 3. That Section 67-2318, Idaho Code, be, and the same is hereby amended to read as follows:

67-2318. EMERGENCY EXPENDITURES. Whenever the governor shall direct an investigation under the provisions of this act and it appears to him that the division of building safety is in emergency need of the consultant services of a specialist in fire prevention methods or in corrective structural procedures, he is authorized in his discretion to pay from the appropriation herein made, or from any other emergency or disaster relief fund available to him, the expense of such consultant services.

If it appears to the satisfaction of the governor that the official or agency in direct control of a public building is unable to comply with any recommendation or decision of the division of building safety because of lack of appropriated funds, the governor may order payment in whole or in part of expenses involved in the elimination or amelioration of hazards from the money herein appropriated or from any appropriation made available to him for emergency or disaster relief.

SECTION 4. 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 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~~3~~, 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 also have the authority to perform safety inspections and safety training programs for logging operations in Idaho.~~

(a) When an inspection reveals evidence of a condition that poses an immediate threat of serious bodily harm or loss of life to any person, the administrator may issue an order to immediately stop the work or close the facility or site where the threat exists. The safety order shall not be rescinded until after the threat has been corrected or removed.

(b) The safety order may be enforced by the attorney general in a civil action brought in the district court for the county wherein the hazardous work site or facility is located.

(c) Any person who knowingly fails or refuses to comply with such an order is guilty of a misdemeanor.

(d) The administrator shall promulgate rules adopting minimum logging safety standards and procedures for conducting inspections and safety training.

(4) In addition to safety inspections of state-owned public buildings conducted under chapter 23, title 67, Idaho Code, the administrator may conduct safety inspections of buildings owned or maintained by political subdivisions of the state upon receipt of a written request from the governing body of that political subdivision, subject to the availability of division resources and the requesting entity's agreement to pay the division's current fees for such an inspection.

(a) The findings of the inspection shall be reported to the governing body of the political subdivision.

(b) The administrator may promulgate rules adopting minimum safety standards and procedures for conducting such inspections, as well as fees for performing the same.

(c) For purposes of this section, "political subdivision" means any governmental unit or special district of the state of Idaho other than public school districts.

(45) 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.

(56) 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.

(67) 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.

SECTION 5. That Section 72-519, Idaho Code, be, and the same is hereby amended to read as follows:

72-519. CREATION OF INDUSTRIAL ADMINISTRATION FUND -- PURPOSE. A fund is hereby created to be known as the industrial administration fund for the purpose of providing funds for administering the workmen's worker's compensation law by the industrial commission. This fund may also be used to provide funds to the division of building safety for administering logging safety inspections and training under section 67-2601A, Idaho Code, conducting inspections of state public buildings under section 67-2313, Idaho Code, and inspections of public school facilities under section 39-8008, Idaho Code.

SECTION 6. That Section 72-720, Idaho Code, be, and the same is hereby repealed.

SECTION 7. That Section 72-721, Idaho Code, be, and the same is hereby repealed.

SECTION 8. That Section 72-722, Idaho Code, be, and the same is hereby repealed.

SECTION 9. That Section 72-723, Idaho Code, be, and the same is hereby repealed.

SECTION 10. That Section 39-4113, Idaho Code, be, and the same is hereby amended to read as follows:

39-4113. PLAN REVIEWS -- MAXIMUM FEES AND SCHOOL INSPECTIONS. (1) The administrator shall establish a program for plan reviews and permit issuance entirely within the division of building safety. Plan reviews shall be for the provisions of this chapter and chapter 10, title 54, Idaho Code, chapter 26, title 54, Idaho Code, chapter 50, title 54, Idaho Code, and chapter 86, title 39, Idaho Code, pertaining to construction, alteration or repair of buildings or structures within the scope of the division's jurisdiction pursuant to this chapter. Plans for schools reviewed by the division shall not include a review for compliance with the provisions of chapter 2, title 41, Idaho Code, or for local planning and zoning requirements.

(2) Plan review fees shall be established by rules promulgated by the board. Local governments elected by school districts to perform building plan reviews for public schools as provided for in this section shall not charge a fee for such review of building plans in excess of what the division has established by rule for building plan review services for public schools.

(3) Each manufacturer of commercial coaches and modular buildings shall submit the building plans for every model of such structure to the administrator for the purpose of review.

(4) (a) Public school building plans shall be approved by either the local government or the division of building safety, whichever the school district elects. Any city or county that has adopted by ordinance all the applicable codes pursuant to section 39-4109, Idaho Code, and the codes as permitted in chapter 10, title 54, Idaho Code, chapter 26, title 54, Idaho Code, and chapter 50, title 54, Idaho Code, shall be eligible to perform school plan reviews only if the following additional requirements are met: plans examiners performing building and energy code plan reviews shall hold current certification as a commercial building plans examiner by the International Code Council; examiners performing plumbing code plan reviews shall hold current certification as a plumbing inspector by the international association of plumbing and mechanical officials and shall be a licensed Idaho journeyman plumber; examiners performing electrical code plan reviews shall hold current certification as an electrical inspector by the national certification program for construction code inspectors and shall be a licensed Idaho journeyman electrician; and examiners performing mechanical code plan reviews shall hold current certification as a commercial mechanical inspector by the International Code Council.

(b) All plans examiners who perform public school plan reviews shall be either an employee of the division, an employee of the local jurisdiction in which the school is to be constructed, or performing plan reviews under an interagency contract between local jurisdictions, and shall meet the eligibility requirements as provided in ~~subsection (4) paragraph~~ (a) of this subsection.

(c) An eligible local government may contract with the division for review of any portion of the plans for which the local government does not have a properly certified plans examiner. A county may be deemed eligible to perform plan review services only for those types of installations for which they have authority pursuant to this chapter and chapter 50, title 54, Idaho Code, to adopt an enforcement program. Where an eligible county performs the plan review services, the electrical and plumbing code plan reviews shall be performed by the division at the hourly rate as established in rule by the division. Any local government elected to perform plan review services for public schools shall provide the division a copy of all approved plans.

(d) Wherein the proposed work is valued in excess of one hundred thousand dollars (\$100,000), a school district may elect to utilize the school plan review services available from an eligible local government building code enforcement jurisdiction or from the division. Wherein the proposed work is valued at one hundred thousand dollars (\$100,000) or less, a school district may elect to use a local government without regard to the eligibility requirements in subsection ~~(4)~~ paragraph (a) of this subsection. Election by a school district shall be made by submitting a written certification to both the division and the involved local government.

(e) Public school plan review services provided by either the division or an eligible local jurisdiction pursuant to this section shall include a review of the following disciplines: building (structural and nonstructural), mechanical, fuel gas, plumbing, electrical, accessibility, elevators, boilers, and energy conservation. At a minimum, plan review services shall include:

(i) A technical examination of all drawings and construction documents; and

(ii) The approval of such drawings and construction documents by determining whether such are in accord with the codes adopted pursuant to sections 39-4109, 54-1001, 54-2601 and 54-5001, Idaho Code, ~~as well as in compliance with applicable provisions of section 72-722, Idaho Code;~~ and

(iii) A determination that the drawings and construction documents are in compliance, or noncompliance, with the applicable codes, code interpretation, and the identification of approved modifications or alternative materials, design or methods; and

(iv) The identification of the reviewing official(s), the date upon which plans are approved, as well as a stamp or some other similar mark on the plans evidencing approval.

(f) If a school district elects to utilize the plan review services of the division, it shall submit to the division of building safety three (3) sets of working drawings and specifications for new public school buildings or facilities and additions or alterations to existing facilities. The division will review the plans submitted to it pursuant to this section for compliance with the current editions of the codes specified in this chapter or within rules promulgated pursuant to this chapter by the board and by section 39-8006, Idaho Code.

(5) Public school building plans must be approved by either the local government or the division before the school district may advertise for bids. Once plans are reviewed and approved pursuant to this section, no material change can be made to such plans without review and approval of such change by the jurisdiction performing the plan review. All school construction or remodeling governed by this chapter shall be inspected by building inspectors certified in accordance with section 39-4108, Idaho Code, or by Idaho licensed architects or engineers to determine compliance with this chapter and the Idaho uniform school building safety act, chapter 80, title 39, Idaho Code. Nothing in this section shall limit the authority of local governments to issue building permits, perform fire code or other zoning and land use related plan reviews or provide a full range of building code enforcement activities as they relate to inspections of school buildings or facilities sited within their jurisdiction regardless of the election exercised by the school district pursuant to this section.

CHAPTER 111  
(S.B. No. 1004)

AN ACT

RELATING TO THE STATE BOARD OF CORRECTION; AMENDING SECTION 20-242A, IDAHO CODE, TO REVISE PROVISIONS RELATING TO INMATE INCENTIVE PAY AND TO PROVIDE LIMITATIONS ON INMATE INCENTIVE PAY.

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

SECTION 1. That Section 20-242A, Idaho Code, be, and the same is hereby amended to read as follows:

20-242A. INMATE INCENTIVE PAY. The board of correction is hereby authorized to institute an incentive pay program for those inmates performing at a meritorious level but who are not privileged to participate in prison work at the direction of the board of correction in jobs not associated with correctional industry employment.

Such incentive pay compensation, if any, shall be funded by the state penal betterment fund as provided in section 20-405 in accordance with a graduated schedule based on quantity and quality of work performed and skill required for its performance.

No such incentive pay shall be paid to any inmate who is receiving pay as provided by section 20-409. Such incentive pay shall not exceed that amount paid to inmates under the provisions of section 20-409.

Nothing in this section is intended to restore, in whole or in part, the civil rights of any inmate. No inmate compensated under this section shall be considered an employee of the state or the board of correction, nor shall any inmate be eligible for worker's compensation under title 72, Idaho Code, or be entitled to any benefits thereunder whether on behalf of himself or any other person.

Approved March 25, 2015

CHAPTER 112  
(S.B. No. 1014)

AN ACT

RELATING TO EXEMPTION OF PROPERTY FROM ATTACHMENT OR LEVY; AMENDING SECTION 11-605, IDAHO CODE, TO REVISE AND CLARIFY WHICH PROCEEDS OF A CERTAIN LIFE INSURANCE CONTRACT ARE ENTITLED TO AN EXEMPTION FROM ATTACHMENT OR LEVY.

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

SECTION 1. That Section 11-605, Idaho Code, be, and the same is hereby amended to read as follows:

11-605. EXEMPTIONS OF PERSONAL PROPERTY AND DISPOSABLE EARNINGS SUBJECT TO VALUE LIMITATIONS. (1) An individual is entitled to exemption of the following property to the extent of a value not exceeding seven hundred fifty dollars (\$750) on any one (1) item of property and not to exceed a total value of seven thousand five hundred dollars (\$7,500) for all items exempted under this subsection:

(a) Household furnishings, household goods, and appliances held primarily for the personal, family, or household use of the individual or a dependent of the individual;

- (b) If reasonably held for the personal use of the individual or a dependent, wearing apparel, animals, books, and musical instruments; and
- (c) Family portraits and heirlooms of particular sentimental value to the individual.

(2) An individual is entitled to exemption of jewelry, not exceeding one thousand dollars (\$1,000) in aggregate value, if held for the personal use of the individual.

(3) An individual is entitled to exemption, not exceeding two thousand five hundred dollars (\$2,500) in aggregate value, of implements, professional books, business equipment and tools of the trade; and to an exemption of one (1) motor vehicle to the extent of a value not exceeding seven thousand dollars (\$7,000).

(4) An individual is entitled to an exemption of provisions of food or water together with storage containers and shelving, sufficient for twelve (12) months for use of the individual or a dependent or dependents of the individual.

(5) All courthouses, jails, public offices and buildings, schoolhouses, lots, grounds and personal property appertaining thereto, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this state, or for the use of schools, and all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by such town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this state. No article or species of property mentioned in this section is exempt from execution issued upon a judgment recovered for its price or upon a mortgage thereon.

(6) All arms, uniforms and accouterments required for the use of an individual as a peace officer, a member of the national guard or military service.

(7) A water right not to exceed one hundred sixty (160) inches of water used for the irrigation of lands actually cultivated by the individual, and the crop or crops growing or grown on fifty (50) acres of land, leased, owned or possessed by an individual cultivating the same, provided, that the amount of the crops so exempted shall not exceed the value of one thousand dollars (\$1,000).

(8) An individual is entitled to exemption of one (1) firearm valued at seven hundred fifty dollars (\$750), or less.

(9) Any unmaturred life insurance contract owned by an individual, other than a credit life insurance contract, including, but not limited to, any accrued dividend or interest under, loan value of, or cash surrender value of, such life insurance contract owned by the individual, excluding accrued dividends, interest, loan value, and/or cash surrender value resulting from premiums paid into the life insurance contract within six (6) months prior to the filing of a bankruptcy petition, as defined in 11 U.S.C. section 101, or the date of attachment or levy on execution, as defined in section 11-201, Idaho Code, whichever is applicable.

~~(10) An individual's aggregate interest, not to exceed five thousand dollars (\$5,000) in any accrued dividend or interest under, or loan value of, any unmaturred life insurance contract owned by the individual under which the insured is the individual or a person of whom the individual is a dependent.~~

~~(11) An individual's aggregate interest in any tangible personal property, not to exceed the value of eight hundred dollars (\$800).~~

~~(12) An individual is entitled to an exemption for his disposable earnings as defined in subsection 2. of section 11-206, Idaho Code, wages, salaries, and compensation for personal services rendered, to the extent~~



such earnings, wages, salaries, and compensation have been earned but have not been paid to the individual, not to exceed one thousand five hundred dollars (\$1,500) in a calendar year. This exemption shall not affect the application or operation of the garnishment restrictions set forth in section 11-207, Idaho Code.

Approved March 25, 2015

CHAPTER 113  
(S.B. No. 1035)

AN ACT

RELATING TO JUVENILE CORRECTIONS; REPEALING SECTION 18-216, IDAHO CODE, RELATING TO CRIMINAL TRIAL OF JUVENILES BARRED, EXCEPTIONS, JURISDICTIONAL HEARING AND TRANSFER OF DEFENDANT TO DISTRICT COURT; AMENDING SECTION 19-2601, IDAHO CODE, TO REMOVE REFERENCE TO JUVENILE PRISONERS, TO PROVIDE CODE REFERENCES, TO PROVIDE THAT THE STATE BOARD OF CORRECTION MAY MAKE RECOMMENDATIONS TO THE COURT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 26, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-2601A, IDAHO CODE, TO AUTHORIZE A BLENDED SENTENCE FOR A CONVICTED JUVENILE; AMENDING SECTION 19-2604, IDAHO CODE, TO PROVIDE A CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 20-219, IDAHO CODE, TO PROVIDE FOR THE BLENDED SENTENCE OF A CONVICTED JUVENILE; AMENDING SECTION 20-508, IDAHO CODE, TO PROVIDE FOR THE BLENDED SENTENCE AND DUAL CUSTODY OF A CONVICTED JUVENILE AND TO PROVIDE A CODE REFERENCE; AMENDING SECTION 20-509, IDAHO CODE, TO PROVIDE FOR THE BLENDED SENTENCE AND DUAL CUSTODY OF A CONVICTED JUVENILE AND TO PROVIDE A CODE REFERENCE; AND AMENDING SECTION 20-520, IDAHO CODE, TO PROVIDE THAT CONVICTED JUVENILES WITH A BLENDED SENTENCE ARE NOT WITHIN THE PURVIEW OF THE CUSTODY REVIEW BOARD AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 18-216, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 19-2601, Idaho Code, be, and the same is hereby amended to read as follows:

19-2601. COMMUTATION, SUSPENSION, WITHHOLDING OF SENTENCE -- PROBATION. Whenever any person shall have been convicted, or enter a plea of guilty, in any district court of the state of Idaho, of or to any crime against the laws of the state, except those of treason or murder, the court in its discretion may:

1. Commute the sentence and confine the defendant in the county jail, or, if the defendant is of proper age, commit the defendant to the custody of the state department of juvenile corrections; or

2. Suspend the execution of the judgment at the time of judgment or at any time during the term of a sentence in the county jail and may place the defendant on probation under such terms and conditions as it deems necessary and appropriate; or

3. Withhold judgment on such terms and for such time as it may prescribe and may place the defendant on probation under such terms and conditions as it deems necessary and appropriate; or

4. Suspend the execution of the judgment at any time during the first three hundred sixty-five (365) days of a sentence to the custody of the state board of correction. The court shall retain jurisdiction over the prisoner

for a period of up to the first three hundred sixty-five (365) days ~~or, if the prisoner is a juvenile, until the juvenile reaches twenty-one (21) years of age.~~ Except as provided for in section 19-2601A, Idaho Code, dDuring 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 appropriate. The court in its discretion may sentence a defendant to more than one (1) period of retained jurisdiction after a defendant has been placed on probation in a case or following release from commitment to the department of juvenile corrections pursuant to section 19-2601A, Idaho Code. 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~~ state board of correction 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, the court may place the defendant on probation. If the court places the defendant on probation to the board of correction, the court shall include in the terms and conditions of probation a requirement that the defendant enter into and comply with an agreement of supervision with the board of correction. The agreement of supervision shall include provisions setting forth the potential sanctions for a violation of the terms or conditions imposed and potential rewards for compliance with the terms and conditions imposed, as such sanctions and rewards are set forth in rules of the board of correction.

6. If the crime involved is a misdemeanor, indictable or otherwise, or if the court should suspend any remaining portion of a jail sentence already commuted in accordance with subsection 1. of this section, the court, if it grants probation, may place the defendant on probation. ~~If the convicted person is a juvenile held for adult criminal proceedings, the court may order probation under the supervision of the county's juvenile probation department.~~

7. The period of probation ordered by a court under this section under a conviction or plea of guilty for a misdemeanor, indictable or otherwise, may be for a period of not more than two (2) years; provided that the court may extend the period of probation to include the period of time during which the defendant is a participant in a problem solving court program and for a period of up to one (1) year after a defendant's graduation or termination from a problem solving court program. Under a conviction or plea of guilty for a felony the period of probation may be for a period of not more than the maximum period for which the defendant might have been imprisoned.

SECTION 3. That Chapter 26, 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 19-2601A, Idaho Code, and to read as follows:

19-2601A. BLENDED SENTENCE. (1) If the convicted juvenile is a juvenile held for adult criminal proceedings, the court may suspend execution of judgment of a sentence, retain jurisdiction and issue an order committing the convicted juvenile to dual custody with the state board of correction and the department of juvenile corrections.

(2) During this period of dual custody and retained jurisdiction:

(a) The department of juvenile corrections shall assume physical custody of and financial responsibility for the convicted juvenile from the time of the court's order until the court terminates the department's custody, jurisdiction is relinquished or the juvenile reaches twenty-one (21) years of age, whichever occurs first;

(b) The department of juvenile corrections shall be responsible for determining the placement of the convicted juvenile and such education, programming and treatment as it determines to be appropriate. However, court approval is required by the sentencing court prior to the department placing a convicted juvenile in a community residential setting;

(c) The state board of correction shall be a member of the convicted juvenile's treatment team. The state board of correction shall participate in staffings and shall provide supervision pursuant to section 20-219, Idaho Code, if the convicted juvenile is placed in a community residential setting by the department of juvenile corrections. During this period of supervision, the state board of correction shall not file a probation violation, but may petition the court to terminate the custody of the department pursuant to paragraph (d) of this subsection;

(d) While the convicted juvenile is in the physical custody of the department of juvenile corrections, if either the department or the state board of correction reasonably believes that the juvenile is failing to comply with all reasonable program requirements, the department or the state board of correction may petition the sentencing court to terminate custody of the department. If the juvenile has successfully completed the program or is sixty (60) days or less from turning twenty-one (21) years of age, the department of juvenile corrections shall return the convicted juvenile to the court for further disposition;

(e) Any recommendation made by the state board of correction or the department of juvenile corrections to the court regarding the convicted juvenile shall be in the nature of an addendum to the presentence report; and

(f) Upon the release of the juvenile by the department of juvenile corrections, its duties and obligations cease and custody of the convicted juvenile with the department is terminated.

(3) All time served under the custody of the department of juvenile corrections shall be credited toward the total sentence given the convicted juvenile. However, in no event may the total of the actual time spent by the convicted juvenile 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.

(4) Upon the release of the convicted juvenile by the department of juvenile corrections or termination of department custody, the court may impose another period of retained jurisdiction pursuant to subsection 4. of section 19-2601, Idaho Code, relinquish jurisdiction and impose the remainder of the sentence with the state board of correction, or place the convicted juvenile on adult felony probation.

SECTION 4. That Section 19-2604, Idaho Code, be, and the same is hereby amended to read as follows:

19-2604. DISCHARGE OF DEFENDANT -- AMENDMENT OF JUDGMENT.

(1) (a) Application for relief under this subsection may be made by the following persons who have pled guilty to or been found guilty of a crime:

- (i) A defendant whose sentence has been suspended or who has received a withheld judgment;
- (ii) A defendant in a felony case whose sentence has been commuted under section 19-2601 1., Idaho Code;
- (iii) A defendant in a felony case upon whom the court has not imposed a sentence to the custody of the board of correction;
- (iv) A defendant who has not been sentenced but who has successfully completed a drug court or mental health court program;
- (v) A defendant in a misdemeanor case who has not been sentenced to serve a term in the county jail.

(b) Upon application of the defendant and upon satisfactory showing that:

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

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

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

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

the court may amend the judgment of conviction from a term in the custody of the state board of correction to "confinement in a penal facility" for the

number of days served prior to suspension, and the amended judgment may be deemed to be a misdemeanor conviction.

(3) (a) In addition to the circumstances in which relief from a felony conviction may be granted under subsections (1) and (2) of this section, a defendant who has been convicted of a felony and who has been discharged from probation may apply to the sentencing court for a reduction of the conviction from a felony to a misdemeanor as provided in this subsection.

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

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

- (i) Assault with intent to commit a serious felony (18-909, 18-915, Idaho Code);
- (ii) Battery with intent to commit a serious felony (18-911, 18-915, Idaho Code);
- (iii) Enticing of children (18-1509, Idaho Code);
- (iv) Murder in the first or second degree (18-4003, Idaho Code);
- (v) Voluntary manslaughter (18-4006(1), Idaho Code);
- (vi) Assault with intent to commit murder (18-4015, Idaho Code);
- (vii) Administering poison with intent to kill (18-4014, Idaho Code);
- (viii) Kidnapping in the first degree (18-4502, Idaho Code);
- (ix) Robbery (18-6501, Idaho Code);
- (x) Trafficking (37-2732B, Idaho Code);
- (xi) Threats against state officials of the executive, legislative or judicial branch, felony (18-1353A, Idaho Code);
- (xii) Unlawful discharge of a firearm at a dwelling house, occupied building, vehicle or mobile home (18-3317, Idaho Code);
- (xiii) Cannibalism (18-5003, Idaho Code);
- (xiv) Unlawful use of destructive device or bomb (18-3320, Idaho Code);
- (xv) Attempt, conspiracy or solicitation to commit any of the crimes described in subparagraphs (e)(i) through (xiv) of this paragraph.

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

- (i) The defendant has not been convicted of any felony committed after the conviction from which relief is sought;
- (ii) The defendant is not currently charged with any crime;
- (iii) There is good cause for granting the reduction in sentence; and
- (iv) In those cases where the stipulation of the prosecuting attorney is required under paragraph (b) or (c) of this subsection, the prosecuting attorney has so stipulated.

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

(4) Subsections (2) and (3) of this section shall not apply to any judgment of conviction for a violation of any offense requiring sex offender registration as set forth in section 18-8304, Idaho Code. A judgment of conviction for a violation of any offense requiring sex offender registration as set forth in section 18-8304, Idaho Code, shall not be subject to dismissal

or reduction under this section. A conviction for the purposes of this chapter means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment.

(5) A violation of the terms of an agreement of supervision with the board of correction by a person under the supervision of the board shall not preclude the granting of relief to that person under this section.

SECTION 5. That Section 20-219, Idaho Code, be, and the same is hereby amended to read as follows:

20-219. PROBATION AND PAROLE SUPERVISION AND TRAINING -- LIMITED SUPERVISION -- RULEMAKING. (1) The state board of correction shall be charged with the duty of:

- (a) Supervising all persons convicted of a felony placed on probation to the board;
- (b) Supervising all persons released from the state penitentiary on parole;
- (c) Supervising all persons convicted of a felony released on parole or probation from other states and residing in the state of Idaho;
- (d) Program delivery, as "program" is defined in section 20-216, Idaho Code, to all persons under its probation or parole supervision based on individual criminal risk factors and specific needs;
- (e) Making such investigations as may be necessary;
- (f) Reporting alleged violations of parole in specific cases to the commission to aid in determining whether the parole should be continued or revoked;
- (g) Reporting alleged violations of the terms or conditions of probation in specific cases to the court and the prosecuting attorney to aid in determining whether the probation should be continued or revoked; and
- (h) Preparing a case history record of the prisoners to assist the commission or the courts in determining if they should be paroled or should be released on probation; and
- (i) Supervising juveniles convicted as adults with a blended sentence pursuant to and in the manner described in section 19-2601A, Idaho Code.

(2) Any person placed on probation or parole and who has been designated as a violent sexual predator pursuant to chapter 83, title 18, Idaho Code, shall be monitored with electronic monitoring technology for the duration of the person's probation or parole period. Any person who, without authority, intentionally alters, tampers with, damages, or destroys any electronic monitoring equipment shall be guilty of a felony.

(3) The state board of correction shall have the discretion to determine the level of supervision of all persons under its supervision, except those who are being supervised by a problem solving court. "Level of supervision" includes the determination of the following:

- (a) The frequency, location, methods and nature of contact with the supervising officer;
- (b) Testing requirements and frequency;
- (c) Contact restrictions;
- (d) Curfew restrictions; and
- (e) Reporting requirements.

(4) Subject to the availability of moneys, caseloads for supervising officers who are supervising offenders determined by the department of correction's validated risk assessment to be high or moderate risk of rearrest should not exceed an average of fifty (50) offenders per supervising officer.

(5) In carrying out its duty to supervise felony probationers and parolees, the state board of correction shall use evidence-based practices, shall target the offender's criminal risk and need factors with appropriate

supervision and intervention and shall focus resources on those identified by the board as moderate-risk and high-risk offenders. The supervision shall include:

- (a) Use of validated risk and needs assessments of the offender that measure criminal risk factors, specific individual needs and driving variable supervision levels;
- (b) Use of assessment results to guide supervision responses consistent with evidence-based practices as to the level of supervision and the practices used to reduce recidivism;
- (c) Collateral and personal contacts with the offender and community that may be unscheduled and which shall occur as often as needed based on the offender's supervision level and risk of reoffense and based on the need to stay informed of the offender's conduct, compliance with conditions and progress in community-based intervention;
- (d) Case planning for each offender assessed as moderate to high risk to reoffend; and
- (e) Use of practical and suitable methods that are consistent with evidence-based practices to aid and encourage the offender to improve his or her conduct and circumstances so as to reduce the offender's risk of recidivism.

(6) The state board of correction shall provide all supervising officers with initial and ongoing training and professional development services to support the implementation of evidence-based supervision practices. All supervising officers employed as of the effective date of this section shall complete the training requirements set forth in this subsection on or before July 1, 2016. All supervising officers hired after the effective date of this section shall complete the training requirements set forth in this subsection within two (2) years of their hire date. The training and professional development services shall include:

- (a) Assessment techniques;
- (b) Case planning;
- (c) Risk reduction and intervention strategies;
- (d) Effective communication skills;
- (e) Behavioral health needs;
- (f) Application of core correctional practices, including motivational interviewing, cognitive restructuring, structured skill building, problem solving, reinforcement and use of authority;
- (g) Training for supervising officers to become trainers so as to ensure long-term and self-sufficient training capacity in the state; and
- (h) Other topics identified by the board as evidence-based practices.

(7) The state board of correction shall promulgate rules in consultation with the Idaho supreme court to:

- (a) Establish a program of limited supervision for offenders who qualify addressing eligibility, risk and needs assessments, transfers among levels of supervision and reporting to the court and the prosecuting attorney.
- (b) Establish a matrix of swift, certain and graduated sanctions and rewards to be imposed by the board in response to corresponding violations of or compliance with the terms or conditions imposed. Sanctions for violations shall include, but are not limited to, community service, increased reporting, curfew, submission to substance use assessment, monitoring or treatment, submission to cognitive behavioral treatment, submission to an educational or vocational skills development program, submission to a period of confinement in a local correctional facility for no more than three (3) consecutive days and house arrest. Rewards for compliance shall include, but are not limited to, decreased reporting and transfer to limited supervision.

SECTION 6. 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 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 and retain jurisdiction pursuant to section 19-2601A, Idaho Code, and commit the defendant to the dual 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 and the state board of correction.~~

~~(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 7. 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 withheld judgment pursuant to section 19-2601A, Idaho Code, and commit the defendant to the dual 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 and the state board of correction.

~~(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 8. 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 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 18 U.S.C. section 922(x), or the court finds that the juvenile offender has violated the court's decree imposing the sentence as provided below in this subsection.

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 a 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, the juvenile detention center shall notify the school district where the detention 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 a 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 offender's driving privileges for such periods of time as the court deems necessary, and the court may take possession of the juvenile 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 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 juvenile corrections with funds allocated to the county probation office. The director of the department of juvenile corrections may promulgate rules consistent with this paragraph to establish a schedule of fees to be charged to parents by the 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 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 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 offender's twenty-first birthday. The department shall adopt rules implementing the custody review board and operations and procedures of such board. Juvenile offenders convicted as adults and placed in the dual custody of the department of juvenile corrections and the state board of correction under section 19-2601A, Idaho Code, are under the retained jurisdiction of the court and are not within the purview of the custody review 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 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 offender's parents or custodian to pay the charges imposed by community programs ordered by the court for the juvenile offender, or the juvenile offender's parents 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.

Approved March 25, 2015

CHAPTER 114  
(S.B. No. 1046)

AN ACT

RELATING TO ENGINEERS AND LAND SURVEYORS; AMENDING SECTION 54-1203, IDAHO CODE, TO REVISE THE NUMBER OF MEMBERS OF THE BOARD, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1204, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1207, IDAHO CODE, TO REVISE THE NUMBER OF MEMBERS NECESSARY FOR A QUORUM; AMENDING SECTION 54-1216, IDAHO CODE, TO REVISE PROVISIONS RELATING TO RENEWAL OF LICENSES, TO REVISE THE PENALTY FOR FAILURE TO RENEW A LICENSE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 54-1220, IDAHO CODE, TO PROVIDE A PENALTY FOR FAILURE TO COMPLETE CERTAIN PROFESSIONAL REQUIREMENTS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-1203, Idaho Code, be, and the same is hereby amended to read as follows:

54-1203. IDAHO BOARD OF LICENSURE OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS. A board to be known as the "Idaho board of licensure of professional engineers and professional land surveyors" is a division of the Idaho department of self-governing agencies and shall administer the provisions of this chapter. It shall consist of ~~five~~ seven (57) persons duly licensed as provided by this chapter, appointed by the governor from among nominees recommended by any organized and generally recognized state engineering society in this state for the professional engineer members or any organized and generally recognized state land surveying society in this state for the professional land surveyor members. The board shall be comprised of ~~four~~ five (45) persons licensed as professional engineers and ~~one~~ two (12) persons licensed as a professional land surveyors. The mem-

bers of the board shall have the qualifications required by section 54-1204, Idaho Code. The members of the present board shall continue to serve for the balance of their respective terms of appointment. Each member of the board shall take, subscribe and file the oath required by chapter 4, title 59, Idaho Code, before entering upon the duties of the office. On the expiration of the term of any member, a successor shall be appointed in like manner by the governor for a term of five (5) years. Any appointment to complete a term that has not expired, because of resignation or inability of a member to serve for any reason, shall be for the unexpired portion of the term. A member of the board shall hold office until the expiration of the term for which he was appointed and until his successor has been appointed and qualified. A member, after serving two (2) consecutive full terms in addition to any unexpired portion of a term, shall not be reappointed for a period of two (2) years. The board, on its own initiative, may appoint any former member as an emeritus member for special assignment to assist the board in the administration of this chapter.

SECTION 2. That Section 54-1204, Idaho Code, be, and the same is hereby amended to read as follows:

54-1204. QUALIFICATION OF MEMBERS OF BOARD. Members of the board shall be citizens of the United States and residents of this state; and they shall have been engaged for at least twelve (12) years in the practice of engineering for the professional engineer members or land surveying for the professional land surveyor members, shall have been in responsible charge for at least five (5) years of important professional engineering or professional land surveying work, and shall be licensed under the provisions of this chapter. Responsible charge of engineering or land surveying teaching may be construed as responsible charge of important professional engineering or professional land surveying work.

SECTION 3. That Section 54-1207, Idaho Code, be, and the same is hereby amended to read as follows:

54-1207. BOARD -- ORGANIZATION AND MEETINGS. The board shall hold at least one (1) regular meeting each year. The rules of the board may provide for additional regular meetings and for special meetings. Notice of all meetings shall be given as may be provided in the rules. The board shall annually elect a chairman, a vice-chairman and a secretary, who shall be members of the board, and they may provide for an assistant or executive director who need not be a member of the board. ~~Three~~ Four (34) members shall constitute a quorum.

SECTION 4. That Section 54-1216, Idaho Code, be, and the same is hereby amended to read as follows:

54-1216. EXPIRATIONS AND RENEWALS -- FEES. Following issuance or renewal of licenses for professional engineers and professional land surveyors, expiration shall be on the last day of the month during which the licensee was born, in even-numbered state of Idaho fiscal years for those born in even-numbered calendar years and in odd-numbered state of Idaho fiscal years for those born in odd-numbered calendar years, and shall become invalid on that date unless renewed. ~~On or after July 1, 2010, the executive director of the board shall send renewal notices to business entities that have been issued a certificate of authorization. The renewal fee amount shall be for a period of one (1) year plus a prorated annual renewal fee amount for the number of months from and including August to and including the month in which the certificate of authorization was originally issued. Thereafter, e~~Certificates of authorization for business entities shall

expire annually on the last day of the month in which the certificates were initially issued and shall become invalid on that date unless renewed. It shall be the duty of the board to notify every person licensed and every business entity certified under this chapter, of the date of the expiration of said license or certificate of authorization and the amount of the fee that shall be required for its renewal. Such notice shall be mailed to the last known address of the licensee or business entity at least one (1) month in advance of the date of the expiration of said license or certificate of authorization. Renewal shall be effective at any time in the appropriate year during the month in which the licensee was born or during the month in which the certificates were initially issued in the case of business entities, by the payment of a renewal fee to be fixed by the board at not more than one hundred fifty dollars (\$150) and upon completion of any requirements for renewal required by this chapter or administrative rule. The failure on the part of any licensee or certificate holder to renew his or its license or certificate biennially in the month in which they were born or annually in the month in which the certificates were initially issued in the case of business entities, as required above shall not deprive such person or business entity of the right of renewal, but the fee to be paid for the renewal of a license or certificate after the month in which it is due shall be increased ~~twenty~~ twenty fifty percent (250%) for each month or fraction of a month that payment of renewal is delayed; provided, however, that the maximum fee for delayed renewal shall not exceed ~~twice the renewal fee for each renewal cycle delinquent,~~ but in no event more than ~~three~~ five hundred dollars (\$3500). Any work performed after a license or certificate of authorization has expired, but before delayed renewal has been effected, shall become valid upon delayed renewal as if the license or certificate of authorization had not expired, but the licensee or certificate holder may be subject to disciplinary action by the board for practice on an expired license or such other action as provided pursuant to this chapter.

Following issuance or renewal of certificates for engineer interns and land surveyor interns, expiration shall be on the last day of the month during which the certificate holder was born, in even-numbered state of Idaho fiscal years for those born in even-numbered calendar years and in odd-numbered state of Idaho fiscal years for those born in odd-numbered calendar years. The notification to holders of certificates shall be processed as prescribed above for licensees, except that the biennial renewal fee shall not be more than thirty dollars (\$30.00). The failure on the part of any holder of a certificate to effect renewal shall not invalidate his status as an engineer intern or land surveyor intern, but his name shall be removed from the board's mailing list.

SECTION 5. That Section 54-1220, Idaho Code, be, and the same is hereby amended to read as follows:

54-1220. DISCIPLINARY ACTION -- PROCEDURES. (1) Any affected party may prefer charges of fraud, deceit, gross negligence, incompetence, misconduct or violation of any provision of this chapter, or violation of any of the rules promulgated by the board against any individual licensee or certificate holder or against any business entity holding a certificate of authorization or against a person applying for a license or against a business entity applying for a certificate of authorization. Repeated acts of negligence may be considered as a gross act for disciplinary action. Such charges shall be in writing, and shall be sworn to by the person or persons making them and shall be filed with the executive director of the board. The executive director of the board shall be considered an affected party and may be the person making and filing the charges.

(2) All charges, unless dismissed by the board as unfounded or de minimis, or unless settled informally, shall be heard by the board within six



(6) months after the date they were received at the board office unless such time is extended by the board for justifiable cause.

(3) Administrative proceedings shall be governed by the provisions of chapter 52, title 67, Idaho Code.

(4) If, after an administrative hearing, the board votes in favor of sustaining the charges, the board may, in its discretion, impose an administrative penalty, not to exceed five thousand dollars (\$5,000) for deposit in the general fund of the state of Idaho. In addition, the board, in its discretion, may admonish, reprimand, suspend, revoke, refuse to renew, refuse to grant, or any combination thereof, the individual's license or certificate or a business entity's certificate of authorization. The board may also, in its discretion, require the individual to practice under the supervision of another licensee, or require the individual to successfully complete continuing education courses as may be prescribed by the board.

(5) Notwithstanding the provisions of subsection (4) of this section, any person who has violated the recordkeeping or continuing professional development requirements imposed by the rules of the board may, in lieu of disciplinary proceedings under this chapter or chapter 52, title 67, Idaho Code, elect to pay the board a penalty in the amount of four hundred dollars (\$400) for a first-time violation. Upon successful completion of the recordkeeping or continuing professional development requirements and payment of the penalty, the violation shall not be considered disciplinary action under the provisions of this section and shall not be reported to any national disciplinary database.

(6) The board shall have jurisdiction over licensees whose licenses are not current, provided the action relates to services performed when the license was current and valid.

Approved March 25, 2015

CHAPTER 115  
(S.B. No. 1054)

AN ACT

RELATING TO THE UNIFORM RECOGNITION OF SUBSTITUTE DECISION-MAKING DOCUMENTS ACT; AMENDING TITLE 15, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 15, TITLE 15, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE FOR THE VALIDITY OF A SUBSTITUTE DECISION-MAKING DOCUMENT, TO PROVIDE MEANING AND EFFECT OF A SUBSTITUTE DECISION-MAKING DOCUMENT, TO AUTHORIZE RELIANCE UPON A SUBSTITUTE DECISION-MAKING DOCUMENT UNDER CERTAIN CONDITIONS, TO PROVIDE FOR AN OBLIGATION TO ACCEPT A SUBSTITUTE DECISION-MAKING DOCUMENT UNDER CERTAIN CONDITIONS, TO PROVIDE FOR REMEDIES UNDER OTHER LAW, TO PROVIDE FOR UNIFORMITY OF APPLICATION AND CONSTRUCTION, TO PROVIDE FOR RELATION TO THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT AND TO PROVIDE APPLICABILITY.

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

SECTION 1. That Title 15, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 15, Title 15, Idaho Code, and to read as follows:

## CHAPTER 15

## UNIFORM RECOGNITION OF SUBSTITUTE DECISION-MAKING DOCUMENTS ACT

15-15-101. SHORT TITLE. This chapter shall be known and may be cited as the "Uniform Recognition of Substitute Decision-Making Documents Act."

15-15-102. DEFINITIONS. As used in this chapter:

(1) "Decision maker" means a person authorized to act for an individual under a substitute decision-making document, whether denominated a decision maker, agent, attorney in fact, proxy, representative or by another title. The term includes an original decision maker, a co-decision maker, a successor decision maker and a person to which a decision maker's authority is delegated.

(2) "Good faith" means honesty in fact.

(3) "Health care" means a service or procedure to maintain, diagnose, treat or otherwise affect an individual's physical or mental condition.

(4) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality or other legal entity.

(5) "Personal care" means an arrangement or service to provide an individual shelter, food, clothing, transportation, education, recreation, social contact or assistance with the activities of daily living.

(6) "Property" means anything that may be subject to ownership, whether real or personal or legal or equitable, or any interest or right therein.

(7) "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.

(8) "Substitute decision-making document" means a record created by an individual to authorize a decision maker to act for the individual with respect to property, health care or personal care.

15-15-103. VALIDITY OF SUBSTITUTE DECISION-MAKING DOCUMENT. (1) A substitute decision-making document for property executed outside this state is valid in this state if, when the document was executed, the execution complied with the law of the jurisdiction indicated in the document or, if no jurisdiction is indicated, the law of the jurisdiction in which the document was executed.

(2) A substitute decision-making document for health care or personal care executed outside this state is valid in this state if, when the document was executed, the execution complied with:

(a) The law of the jurisdiction indicated in the document or, if no jurisdiction is indicated, the law of the jurisdiction in which the document was executed; or

(b) The law of this state other than this chapter.

(3) Except as otherwise provided by law of this state other than this chapter, a photocopy or electronically transmitted copy of an original substitute decision-making document has the same effect as the original.

15-15-104. MEANING AND EFFECT OF SUBSTITUTE DECISION-MAKING DOCUMENT. The meaning and effect of a substitute decision-making document and the authority of the decision maker are determined by the law of the jurisdiction indicated in the document or, if no jurisdiction is indicated, the law of the jurisdiction in which the document was executed.

15-15-105. RELIANCE UPON SUBSTITUTE DECISION-MAKING DOCUMENT. (1) Except as otherwise provided for in sections 15-12-119 and 39-4513, Idaho Code, a person that in good faith accepts a substitute decision-making document without actual knowledge that the document is void, invalid or terminated, or that the authority of the purported decision maker is void,

invalid or terminated, may assume without inquiry that the document is genuine, valid and still in effect and that the decision maker's authority is genuine, valid and still in effect.

(2) A person that is asked to accept a substitute decision-making document may request and without further investigation rely upon:

- (a) The decision maker's assertion of a fact concerning the individual for whom a decision will be made, the decision maker or the document;
- (b) A translation of the document if the document contains, in whole or in part, language other than English; and
- (c) An opinion of counsel regarding any matter of law concerning the document if the person provides in a record the reason for the request.

15-15-106. OBLIGATION TO ACCEPT SUBSTITUTE DECISION-MAKING DOCUMENT. (1) Except as otherwise provided in subsection (2) of this section or by law of this state other than this act, including section 15-12-120(2)(b), Idaho Code, a person that is asked to accept a substitute decision-making document shall accept within a reasonable time a document that purportedly meets the validity requirements of section 15-15-103, Idaho Code. The person may not require an additional or different form of document for authority granted in the document presented.

(2) A person that is asked to accept a substitute decision-making document is not required to accept the document if:

- (a) The person otherwise would not be required in the same circumstances to act if requested by the individual who executed the document;
- (b) The person has actual knowledge of the termination of the decision maker's authority or the document;
- (c) The person's request under section 15-15-105(2), Idaho Code, for the decision maker's assertion of fact, a translation or an opinion of counsel is refused;
- (d) The person in good faith believes that the document is not valid or the decision maker does not have the authority to request a particular transaction or action; or
- (e) The person makes, or has actual knowledge that another person has made, a report to the local office of adult protective services stating a belief that the individual for whom a decision will be made may be subject to abuse, neglect, exploitation or abandonment by the decision maker or a person acting for or with the decision maker.

(3) A person that in violation of the provisions of this section refuses to accept a substitute decision-making document is subject to:

- (a) A court order mandating acceptance of the document; and
- (b) Liability for reasonable attorney's fees and costs incurred in an action or proceeding that mandates acceptance of the document.

15-15-107. REMEDIES UNDER OTHER LAW. The remedies under this act are not exclusive and do not abrogate any right or remedy under law of this state other than this chapter.

15-15-108. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.

15-15-109. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits or supersedes the electronic signatures in global and national commerce act, 15 U.S.C. section 7001 et seq., but does not modify, limit or supersede section 101(c) of that act, 15 U.S.C. section 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. section 7003(b).

15-15-110. APPLICABILITY. This chapter applies to a substitute decision-making document created before, on or after the effective date of this chapter.

Approved March 25, 2015

CHAPTER 116  
(S.B. No. 1063)

AN ACT

RELATING TO LAND SURVEYING; AMENDING SECTION 54-1202, IDAHO CODE, TO REVISE DEFINITIONS; AND AMENDING SECTION 54-1227, IDAHO CODE, TO REVISE TERMINOLOGY AND TO PROVIDE A CODE REFERENCE.

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

SECTION 1. That Section 54-1202, Idaho Code, be, and the same is hereby amended to read as follows:

54-1202. DEFINITIONS. As used in this chapter, unless the context or subject matter requires otherwise:

(1) "Authoritative" means certified by a professional land surveyor in accordance with established principles of professional land surveying when used to describe products, processes, applications or data resulting from the practice of professional land surveying.

(2) "Benchmark" means a material object, natural or artificial, whose elevation is referenced to an adopted datum.

(23) "Board" means the Idaho board of licensure of professional engineers and professional land surveyors, hereinafter provided by this chapter.

(34) "Business entity" means a corporation, professional corporation, limited liability company, professional limited liability company, general partnership, limited partnership, limited liability partnership, professional limited liability partnership or any other form of business except a sole proprietorship.

(45) "Consulting engineer" means a professional engineer whose principal occupation is the independent practice of professional engineering; whose livelihood is obtained by offering engineering services to the public; who is devoid of public, commercial and product affiliation that might tend to infer a conflict of interest; and who is cognizant of his public and legal responsibilities, and is capable of discharging them.

(56) "Engineer" means a person who is qualified to practice engineering by reason of his special knowledge and use of mathematical, physical and engineering sciences, and the principles and methods of engineering analysis and design, acquired by professional education and engineering experience.

(67) "Engineer intern" means a person who has qualified for, taken and passed an examination in the fundamentals of engineering subjects as provided in this chapter.

~~(7) "Land survey" means measuring the field location of corners that:~~

~~(a) Determine the boundary or boundaries common to two (2) or more owners;~~

~~(b) Retrace or establish land boundaries;~~

~~(c) Retrace or establish boundary lines of public roads, streets, alleys or trails; or~~

~~(d) Plat lands and subdivisions thereof.~~

(8) "Land surveyor intern" means a person who has qualified for, taken and passed an examination in the fundamentals of surveying subjects as provided in this chapter.

(9) "Professional engineer" means a person who has been duly licensed as a professional engineer by the board under this chapter.

(10) "Professional engineering" and "practice of professional engineering" mean any service or creative work offered to or performed for the public for any project physically located in this state, such as consultation, investigation, evaluation, planning, designing, design coordination, teaching upper division engineering design subjects, and responsible charge of observation of construction in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works or projects or to certify elevation information, wherein the public welfare or the safeguarding of life, health, or property is concerned or involved, when such service requires the application of engineering principles and data. A person shall be construed to practice or offer to practice professional engineering within the meaning and intent of this chapter who practices or offers to practice any of the branches of the profession of engineering for the public for any project physically located in this state or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional engineer or through the use of some other title implies that he is a professional engineer or that he is licensed under this chapter, or holds himself out as able to perform or who does perform for the public for any project physically located in this state, any engineering service or work or any other service designated by the practitioner which is the practice of professional engineering.

(11) (a) "Professional land surveying" and "practice of professional land surveying" mean responsible charge of authoritative land surveying to determine the correct boundary description, to establish or reestablish land boundaries, to plat lands and subdivisions thereof or to certify elevation information services using sciences such as mathematics, geodesy and photogrammetry and involving:

(i) The making of geometric measurements and gathering related information pertaining to the physical or legal features of the earth, improvement on the earth, and the space above, on or below the earth; and

(ii) Providing, utilizing or developing the same into survey products such as graphics, data, maps, plans, reports, descriptions or projects. Professional services include acts of consultation, investigation, testimony, planning, mapping, assembling and interpreting and gathering measurements and information related to any one (1) or more of the following:

1. Determining by measurement the configuration or contour of the earth's surface or the position of any fixed objects;
2. Performing geodetic surveys to determine the size and shape of the earth or the position of any point on the earth;
3. Locating, relocating, establishing, reestablishing or retracing property lines or boundaries of any tract of land, road, right-of-way, easement or real property lease;
4. Making any survey for a division or subdivision or a consolidation of any tracts of land;
5. Locating or laying out of alignments, positions or elevations in the field for the construction of fixed works;
6. Determining, by the use of principles of surveying, the position for any boundary or nonboundary survey monument or reference point or for establishing or replacing any such monument or reference point;
7. Certifying elevation information;
8. Preparing narrative land descriptions; or
9. Creating, preparing or modifying electronic or other data necessary for the performance of activities in subparagraphs 1. through 8. of this paragraph.

(b) "Professional land surveying" and "practice of professional land surveying" shall not mean:

(i) Mapping or geographic information system work that is for nonauthoritative boundaries and nonauthoritative elevations;

(ii) Construction survey work that is unrelated to establishing vertical and horizontal project control; or

(iii) Construction staking of fixed works or the development and use of electronic models for machine-controlled construction that by design are unrelated to determining boundaries described in paragraph (a) (ii) 3. of this subsection.

Any person shall be construed to practice or offer to practice professional land surveying who engages in professional land surveying, or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional land surveyor, or who represents himself as able to perform or who does perform any professional land surveying service or work or any other service designated by the practitioner which is professional land surveying.

(12) "Professional land surveyor" means a person who is qualified by reason of his knowledge of the principles of land surveying acquired by education and practical experience to engage in the practice of professional land surveying and who has been duly licensed as a professional land surveyor by the board under this chapter.

(13) "Public" means any person, firm, corporation, partnership, company, government agency, institution or any other entity recognized by law.

(14) "Responsible charge" means the control and direction of engineering work, or the control and direction of land surveying work, requiring initiative, professional skill, independent judgment and professional knowledge of the content of relevant documents during their preparation. Except as allowed under section 54-1223, Idaho Code, reviewing, or reviewing and correcting, documents after they have been prepared by others does not constitute the exercise of responsible charge.

(15) "Rules of professional responsibility" means those rules, if any, promulgated by the board, as authorized by the Idaho Code.

(16) "Signature" means either: an original handwritten message identification containing the name of the person who applied it; or a digital signature which is an electronic authentication process attached to or logically associated with an electronic document. The digital signature must be unique to the person using it; must be capable of verification; must be under the sole control of the person using it; and must be linked to a document in such a manner that the digital signature is invalidated if any data in the document is changed.

(17) "Standard design plan" means a building, structure, equipment or facility which is intended to be constructed or sited at multiple locations and for which some or all of the plans must be prepared by a professional engineer.

SECTION 2. That Section 54-1227, Idaho Code, be, and the same is hereby amended to read as follows:

54-1227. SURVEYS -- AUTHORITY AND DUTIES OF PROFESSIONAL LAND SURVEYORS AND PROFESSIONAL ENGINEERS. Every licensed professional land surveyor is hereby authorized to make land surveys and it shall be the duty of each licensed professional land surveyor, whenever making any such professional boundary land survey as defined in section 54-1202, Idaho Code, that is not preliminary in nature, to set permanent and reliable magnetically detectable monuments at all unmonumented corners field located, the minimum size of which shall be one-half (1/2) inch in least dimension and two (2) feet long iron or steel rod unless special circumstances preclude use of such monument; and such monuments must be permanently marked with the license number

of the professional land surveyor responsible for placing the monument. Professional engineers qualified and duly licensed pursuant to this chapter may also perform those nonboundary surveys necessary and incidental to the work customarily performed by them.

Approved March 25, 2015

CHAPTER 117  
(S.B. No. 1082)

AN ACT

RELATING TO HIGHWAY DISTRICT RECORDS; AMENDING CHAPTER 13, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-1337A, IDAHO CODE, TO PROVIDE FOR THE REPRODUCTION AND RETENTION OF DOCUMENTS IN PHOTOGRAPHIC, DIGITAL AND OTHER NONPAPER MEDIUM, TO PROVIDE CONDITIONS RELATING TO THE MEDIUM CHOSEN FOR REPRODUCTION AND RETENTION, TO PROVIDE THAT DOCUMENTS RETAINED PURSUANT TO SPECIFIED LAW SHALL BE CONSIDERED ORIGINAL PUBLIC RECORDS, TO PROVIDE THAT CERTAIN CERTIFIED COPIES SHALL BE DEEMED TRANSCRIPTS, TO PROVIDE FOR THE DISPOSAL OR RETURN OF ORIGINAL PAPER DOCUMENTS, TO PROVIDE FOR TREATMENT OF REQUISITE DUPLICATE COPIES AND TO PROVIDE THAT HIGHWAY DISTRICTS MAY INCORPORATE ELECTRONIC VERSIONS OF AGREEMENTS BY REFERENCE INTO CONTRACTS IF CERTAIN CONDITIONS ARE MET.

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

SECTION 1. That Chapter 13, 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 40-1337A, Idaho Code, and to read as follows:

40-1337A. PHOTOGRAPHIC OR DIGITAL STORAGE AND USE OF HIGHWAY DISTRICT RECORDS. (1) A highway district official may reproduce and retain documents in a photographic, digital or other nonpaper medium. The medium in which a document is retained shall accurately reproduce the document in paper form during the period for which the document must be retained and shall preclude unauthorized alteration of the document.

(a) If the medium chosen for retention is photographic, all film used must meet the quality standards of the American national standards institute (ANSI).

(b) If the medium chosen for retention is digital, the medium must provide for reproduction on paper at a resolution of at least two hundred (200) dots per inch.

(c) A document retained by the highway district in any form or medium permitted under this section shall be deemed an original public record for all purposes. A reproduction or copy of such a document, certified by the highway district official, shall be deemed to be a transcript or certified copy of the original and shall be admissible before any court or administrative hearing.

(d) Once a paper document is retained in a nonpaper medium as authorized by this section, the original paper document may be disposed of or returned to the sender.

(e) Whenever any record is reproduced by photographic or digital process as herein provided, it shall be made in duplicate, and the custodian thereof shall place one (1) copy in a fire-resistant vault, or off-site storage facility, and he shall retain the other copy in his office with suitable equipment for displaying such record at not less than original size and for making copies of the record.

(2) A highway district may incorporate an electronic version of another agreement by reference into a contract, if:

- (a) The unsigned terms are stored in accordance with the provisions of this section;
- (b) The signed contract contains a prominently displayed notification of the incorporation by reference; and
- (c) The unsigned terms are readily available for inspection by the parties.

Approved March 25, 2015

CHAPTER 118  
(S.B. No. 1116)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE PUBLIC SCHOOLS EDUCATIONAL SUPPORT PROGRAM/DIVISION OF CHILDREN'S PROGRAMS FOR FISCAL YEAR 2015; 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 223, Laws of 2014, and any other appropriation provided for by law, there is hereby appropriated to the Public Schools Educational Support Program/Division of Children's Programs, \$49,115,000 from federal funds to be expended for the period July 1, 2014, through June 30, 2015.

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 25, 2015

CHAPTER 119  
(S.B. No. 1117)

AN ACT

APPROPRIATING MONEYS TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO FOR FISCAL YEAR 2016; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; 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, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. RETIREMENT ADMINISTRATION:				
FROM:				
PERSI Administrative				
Fund	\$3,747,400	\$2,521,700	\$131,000	\$6,400,100



	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
Judges' Retirement				
Fund	55,600	1,000	5,500	62,100
TOTAL	\$3,803,000	\$2,522,700	\$136,500	\$6,462,200

## II. PORTFOLIO INVESTMENT:

FROM:

PERSI Special

Fund	\$702,300	\$202,000	\$18,000	\$922,300
GRAND TOTAL	\$4,505,300	\$2,724,700	\$154,500	\$7,384,500

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-five (65) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, 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. 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 System Board as provided in Section 59-1311(4)(a), (b) and (c), Idaho Code.

Approved March 25, 2015

CHAPTER 120  
(S.B. No. 1119)

## AN ACT

RELATING TO COMMISSIONER SALARIES; AMENDING SECTION 61-215, IDAHO CODE, TO INCREASE THE SALARIES OF THE PUBLIC UTILITIES COMMISSIONERS; AMENDING SECTION 63-102, IDAHO CODE, TO INCREASE THE SALARIES OF THE STATE TAX COMMISSIONERS; AMENDING SECTION 72-503, IDAHO CODE, TO INCREASE THE SALARIES OF THE INDUSTRIAL COMMISSIONERS; APPROPRIATING ADDITIONAL MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 2016; APPROPRIATING ADDITIONAL MONEYS TO THE STATE TAX COMMISSION FOR FISCAL YEAR 2016; AND APPROPRIATING ADDITIONAL MONEYS TO THE INDUSTRIAL COMMISSION FOR FISCAL YEAR 2016.

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

SECTION 1. That Section 61-215, Idaho Code, be, and the same is hereby amended to read as follows:

61-215. SALARIES OF PUBLIC UTILITIES COMMISSIONERS. Each member of the public utilities commission shall devote full time to the performance of his/her duties. Commencing on July 1, 2014 2015, the annual salary of

members of the public utilities commission shall be ~~ninety-four~~seven thousand ~~nine hundred fifty~~ seven hundred ninety-nine dollars (\$~~94,950~~97,799) and shall be paid from sources set by the legislature.

SECTION 2. That Section 63-102, Idaho Code, be, and the same is hereby amended to read as follows:

63-102. ORGANIZATION -- CHAIRMAN -- COMPENSATION -- QUORUM -- HEARINGS. (1) A member of the state tax commission shall be appointed by the governor, to serve at his pleasure, as chairman. Each member of the state tax commission shall devote full time to the performance of duties. Commencing on July 1, ~~2014~~ 2015, the annual salary for members of the state tax commission shall be ~~eighty-eight~~ ninety thousand ~~twenty-eight~~ six hundred sixty-nine dollars (\$~~88,028~~90,669).

(2) A majority of the state tax commission shall constitute a quorum for the transaction of business. The state tax commission may delegate to any member of the commission or to its employees, the power to make investigations and hold hearings at any place it may deem proper, and such other matters as will facilitate the operations of the commission.

(3) The chairman of the state tax commission shall delegate to each commissioner the responsibility for policy management and oversight of one (1) or more of the taxes collected and/or activities supervised or administered by the commission. The state tax commission shall perform the duties imposed upon it by law and shall adopt all rules by majority decision.

In any case in which the state tax commission sits as an appellate body upon an appeal from a tax decision from one (1) of the various administrative units subject to its supervision, the state tax commissioner charged with responsibility for policy management and oversight of the tax in controversy shall not vote upon the appeal but may advise the remaining members of the commission on the technical aspects of the problems before them.

(4) The chairman shall be the chief executive officer and administrative head of the state tax commission and shall be responsible for, or may assign responsibility for, all personnel, budgetary and/or fiscal matters of the state tax commission.

SECTION 3. That Section 72-503, Idaho Code, be, and the same is hereby amended to read as follows:

72-503. SALARY. Commencing July 1, ~~2014~~ 2015, the annual salary of each member of the industrial commission shall be ~~ninety-two~~five thousand ~~four~~ one hundred ~~twenty~~ ninety-three dollars (\$~~92,420~~95,193). Industrial commissioner salaries shall be paid from sources set by the legislature. Each member of the industrial commission shall devote full time to the performance of his duties.

SECTION 4. In addition to any other appropriation made by law, as enacted by the First Regular Session of the Sixty-third Legislature, there is hereby appropriated \$10,400 to the Public Utilities Commission to be expended for personnel costs from the Public Utilities Commission Fund for the period July 1, 2015, through June 30, 2016.

SECTION 5. In addition to any other appropriation made by law, as enacted by the First Regular Session of the Sixty-third Legislature, there is hereby appropriated to the Idaho State Tax Commission the following amounts to be expended according to the designated programs for personnel costs from the listed funds for the period July 1, 2015, through June 30, 2016:

## I. GENERAL SERVICES:

## FROM:

General Fund	\$10,100
Administration Services for Transportation Fund	<u>1,500</u>
TOTAL	\$11,600

## II. AUDIT DIVISION:

## FROM:

Multistate Tax Compact Fund	\$600
Administration and Accounting Fund	300
Administration Services for Transportation Fund	<u>300</u>
TOTAL	\$1,200

GRAND TOTAL	\$12,800
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SECTION 6. In addition to any other appropriation made by law, as enacted by the First Regular Session of the Sixty-third Legislature, there is hereby appropriated \$10,100 to the Industrial Commission to be expended for personnel costs from the Industrial Administration Fund for the period July 1, 2015, through June 30, 2016.

Approved March 25, 2015

CHAPTER 121  
(H.B. No. 189)

AN ACT

RELATING TO TELEHEALTH SERVICES; AMENDING TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 56, TITLE 54, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE FINDINGS, TO DEFINE TERMS, TO DEFINE THE SCOPE OF PRACTICE FOR TELEHEALTH SERVICES, TO PROVIDE THAT A PATIENT-PROVIDER RELATIONSHIP SHALL BE ESTABLISHED UNDER CERTAIN CIRCUMSTANCES, TO CLARIFY REQUIREMENTS FOR PATIENT EVALUATION AND TREATMENT, TO PROVIDE REQUIREMENTS RELATING TO PRESCRIPTION DRUG ORDERS, TO PROVIDE THAT PATIENTS USING TELEHEALTH SERVICES MUST GIVE INFORMED CONSENT, TO PROVIDE THAT CONTINUING CARE SHALL BE MADE AVAILABLE TO PATIENTS, TO REQUIRE THAT PROVIDERS OF TELEHEALTH SERVICES SHALL HAVE ACCESS TO CERTAIN MEDICAL RESOURCES, TO REQUIRE THAT PROVIDERS KEEP CERTAIN RECORDS AND MAKE THEM AVAILABLE TO CERTAIN PERSONS, TO PROVIDE THAT CERTAIN BOARDS MAY SUBJECT PROVIDERS OF TELEHEALTH SERVICES TO PROFESSIONAL DISCIPLINE AND TO GRANT RULEMAKING AUTHORITY TO CERTAIN BOARDS.

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

SECTION 1. That Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 56, Title 54, Idaho Code, and to read as follows:

CHAPTER 56  
IDAHO TELEHEALTH ACCESS ACT

54-5601. **SHORT TITLE.** This chapter shall be known and may be cited as the "Idaho Telehealth Access Act."

54-5602. **LEGISLATIVE FINDINGS.** The legislature hereby finds the following:

(1) Telehealth services enhance access to health care, make delivery of health care more cost-effective and distribute limited health care provider resources more efficiently.

(2) Citizens with limited access to traditional health care may be diagnosed and treated sooner through telehealth services than they would be otherwise, resulting in improved health outcomes and less costly treatments due to early detection and prevention.

(3) Telehealth services address an unmet need for health care by persons who have limited access to such care due to provider shortages or geographic barriers.

(4) Telehealth services provide increased capacity for appropriate care in the appropriate location at the appropriate time to better serve patients, providers and communities.

(5) When practiced safely, telehealth services result in improvement in health outcomes by expanding health care access for the people of Idaho.

54-5603. **DEFINITIONS.** As used in this chapter:

(1) "Asynchronous store and forward transfer" means the transmission of a patient's health care information from an originating site to a provider at a distant site over a secure connection that complies with state and federal security and privacy laws.

(2) "Distant site" means the site at which a provider delivering telehealth services is located at the time the service is provided.

(3) "Originating site" means the location of a patient at the time telehealth services are provided.

(4) "Provider" means a person who is licensed, required to be licensed, or, if located outside of Idaho, would be required to be licensed if located in Idaho, pursuant to title 54, Idaho Code, to deliver health care consistent with his or her license.

(5) "Synchronous interaction" means real-time communication through interactive technology that enables a provider and a patient at two (2) locations separated by distance to interact simultaneously through two-way video and audio or audio transmission.

(6) "Telehealth services" means health care services provided by a provider to a person through the use of electronic communications, information technology, asynchronous store and forward transfer or synchronous interaction between a provider at a distant site and a patient at an originating site. Such services include, but are not limited to, clinical care, health education, home health and facilitation of self-managed care and caregiver support.

54-5604. **SCOPE OF PRACTICE.** A provider offering telehealth services must at all times act within the scope of the provider's license and according to all applicable laws and rules, including, but not limited to, this chapter and the community standard of care.

54-5605. **PROVIDER-PATIENT RELATIONSHIP.** (1) If a provider offering telehealth services in his or her practice does not have an established provider-patient relationship with a person seeking such services, the provider shall take appropriate steps to establish a provider-patient relationship by use of two-way audio and visual interaction; provided however,

that the applicable Idaho community standard of care must be satisfied. Nothing in this section shall prohibit electronic communications:

- (a) Between a provider and a patient with a preexisting provider-patient relationship;
- (b) Between a provider and another provider concerning a patient with whom the other provider has a provider-patient relationship;
- (c) Between a provider and a patient where the provider is taking call on behalf of another provider in the same community who has a provider-patient relationship with the patient; or
- (d) In an emergency.

(2) As used in this section, "emergency" means a situation in which there is an occurrence that poses an imminent threat of a life-threatening condition or severe bodily harm.

54-5606. EVALUATION AND TREATMENT. Prior to providing treatment, including a prescription drug order, a provider shall obtain and document a patient's relevant clinical history and current symptoms to establish the diagnosis and identify underlying conditions and contraindications to the treatment recommended. Treatment recommendations provided through telehealth services shall be held to the applicable Idaho community standard of care that applies in an in-person setting. Treatment based solely on an online questionnaire does not constitute an acceptable standard of care.

54-5607. PRESCRIPTIONS. (1) A provider with an established provider-patient relationship, including a relationship established pursuant to section 54-5605, Idaho Code, may issue prescription drug orders using telehealth services within the scope of the provider's license and according to any applicable laws, rules and regulations, including the Idaho community standard of care; provided however, that the prescription drug shall not be a controlled substance unless prescribed in compliance with 21 U.S.C. section 802(54)(A).

(2) Nothing in this chapter shall be construed to expand the prescriptive authority of any provider beyond what is authorized by the provider's licensing board.

(3) No drug may be prescribed through telehealth services for the purpose of causing an abortion.

54-5608. INFORMED CONSENT. A patient's informed consent for the use of telehealth services shall be obtained as required by any applicable law.

54-5609. CONTINUITY OF CARE. A provider of telehealth services shall be available for follow-up care or to provide information to patients who make use of such services.

54-5610. REFERRAL TO OTHER SERVICES. A provider shall be familiar with and have access to available medical resources, including emergency resources near the patient's location, in order to make appropriate patient referrals when medically indicated.

54-5611. MEDICAL RECORDS. Any provider offering telehealth services as part of his or her practice shall generate and maintain medical records for each patient using such telehealth services in compliance with any applicable state and federal laws, rules and regulations, including the health insurance portability and accountability act (HIPAA), P.L. 104-191 (1996), and the health information technology for economic and clinical health act (HITECH), P.L. 111-115 (2009). Such records shall be accessible to other providers and to the patient in accordance with applicable laws, rules and regulations.

54-5612. ENFORCEMENT AND DISCIPLINE. A provider is prohibited from offering telehealth services in his or her practice if the provider is not in full compliance with applicable laws, rules and regulations, including this act and the Idaho community standard of care. State licensing boards shall be authorized to enforce the provisions of this chapter relating to the practice of individuals they license. A provider who fails to comply with applicable laws, rules and regulations is subject to discipline by his or her licensing board.

54-5613. RULEMAKING. Any board authorized by title 54, Idaho Code, to license providers may promulgate rules relating to telehealth services pursuant to this chapter and consistent with the provisions contained herein.

Approved March 25, 2015

CHAPTER 122  
(S.B. No. 1044)

AN ACT

RELATING TO EMINENT DOMAIN; AMENDING SECTION 7-701A, IDAHO CODE, TO PROVIDE ADDITIONAL RESTRICTIONS ON THE USE OF EMINENT DOMAIN AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 7-701A, Idaho Code, be, and the same is hereby amended to read as follows:

7-701A. LIMITATION ON EMINENT DOMAIN FOR PRIVATE PARTIES, URBAN RENEWAL OR ECONOMIC DEVELOPMENT PURPOSES. (1) This section limits and restricts the use of eminent domain under the laws of this state or local ordinance by the state of Idaho, its instrumentalities, political subdivisions, public agencies, or bodies corporate and politic of the state to condemn any interest in property in order to convey the condemned interest to a private interest or person as provided herein.

(2) Eminent domain shall not be used to acquire private property:

(a) For any alleged public use which is merely a pretext for the transfer of the condemned property or any interest in that property to a private party; or

(b) For the purpose of promoting or effectuating economic development; provided however, that nothing herein shall affect the exercise of eminent domain:

(i) Pursuant to chapter 15, title 70, Idaho Code, and title 42, Idaho Code; or

(ii) Pursuant to chapters 19, 20 or 29, title 50, Idaho Code, except that no private property shall be taken through exercise of eminent domain within the area of operation of a housing authority or within an urban renewal area or within a deteriorated or deteriorating area or within a competitively disadvantaged border community area unless the specific property to be condemned is proven by clear and convincing evidence to be in such condition that it meets all of the following requirements:

1. The property, due to general dilapidation, compromised structural integrity, or failed mechanical systems, endangers life or endangers property by fire or by other perils that pose an actual identifiable threat to building occupants; and

2. The property contains specifically identifiable conditions that pose an actual risk to human health, transmission of disease, juvenile delinquency or criminal content; and

3. The property presents an actual risk of harm to the public health, safety, morals or general welfare; or

(iii) For those public and private uses for which eminent domain is expressly provided in the constitution of the state of Idaho; or

(c) For trails, paths, greenways or other ways for walking, running, hiking, bicycling or equestrian use, unless adjacent to a highway, road or street.

(3) This section shall not affect the authority of a governmental entity to condemn a leasehold estate on property owned by the governmental entity.

(4) The rationale for condemnation by the governmental entity proposing to condemn property shall be freely reviewable in the course of judicial proceedings involving exercise of the power of eminent domain.

Approved March 26, 2015

#### CHAPTER 123

(S.B. No. 1059, As Amended)

#### AN ACT

RELATING TO IRRIGATION DISTRICTS; AMENDING CHAPTER 7, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-733, IDAHO CODE, TO PROVIDE FOR SPECIAL ASSESSMENTS TO PAY FOR PHYSICAL STRUCTURES OR OTHER WORK NECESSARY TO PROTECT IRRIGATION DISTRICT FACILITIES FROM HARM CAUSED BY CERTAIN RUNOFF OR DRAINAGE, TO PROVIDE CONDITIONS OF ISSUANCE OF SUCH SPECIAL ASSESSMENT, TO PROVIDE FOR THE ASSESSMENT OF INDIVIDUAL LANDS THAT ARE THE SOURCE OF IRRIGATION RUNOFF OR DRAINAGE, TO PROVIDE THAT ASSESSMENTS SHALL BE FOR CERTAIN COSTS, TO PROVIDE THAT ASSESSMENTS SHALL BE IN ADDITION TO ASSESSMENTS FOR THE DELIVERY OF WATER, TO PROVIDE FOR THE APPLICABILITY OF CERTAIN PROVISIONS RELATING TO DELINQUENT ASSESSMENTS AND TO PROVIDE THAT SPECIAL ASSESSMENTS SHALL BE SUBJECT TO REVIEW PURSUANT TO SPECIFIED LAW.

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

SECTION 1. That Chapter 7, 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 43-733, Idaho Code, and to read as follows:

43-733. ASSESSMENTS FOR MEASURES TO PROTECT DISTRICT FACILITIES. Notwithstanding any provision of title 43, Idaho Code, to the contrary, an irrigation district may determine that it is necessary to impose a special assessment to pay for physical structures or other work necessary to protect its facilities from harm caused by irrigation runoff or drainage from individual lands within the district that are on the district's assessment book prepared under section 43-701, Idaho Code. The district may issue a special assessment on such lands to perform such protective work only if the district has adopted a bylaw or resolution authorizing a special assessment for protection of district facilities from irrigation runoff or drainage from such individual lands, after notice to the landowner. When an assessment for such protective work has been authorized, the district shall assess such individual lands that are the source of irrigation runoff or drainage, the cost of such protective measures, including the annual cost of maintenance of any necessary repairs or maintenance of such protective measures, in addition to the assessments that are levied for the delivery

of water to the individual landowners, and the same provisions shall apply with regard to delinquent assessments, as in the case of assessments levied for the delivery of water. The special assessments authorized under this section are subject to review by the board of corrections under section 43-703, Idaho Code.

Approved March 26, 2015

CHAPTER 124  
(S.B. No. 1074)

AN ACT

RELATING TO THE IDAHO HONEY COMMISSION; AMENDING SECTION 22-2803, IDAHO CODE, TO REVISE THE NAME OF THE COMMISSION; REPEALING SECTION 22-2804, IDAHO CODE, RELATING TO MEMBERS OF THE IDAHO HONEY ADVERTISING COMMISSION; AMENDING CHAPTER 28, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-2804, IDAHO CODE, TO PROVIDE FOR THE IDAHO HONEY COMMISSION, TO PROVIDE FOR MEMBERS, TO PROVIDE QUALIFICATIONS, TO PROVIDE THAT THE IDAHO HONEY INDUSTRY ASSOCIATION MAY REQUEST THE REMOVAL OF A MEMBER, TO PROVIDE FOR NOMINATION AND APPOINTMENT OF MEMBERS, TO PROVIDE FOR TERMS, TO PROVIDE FOR THE ELECTION OF A CHAIRMAN AND DELEGATION OF THE FUNCTION OF THE COMMISSION, TO PROVIDE FOR A QUORUM, TO PROVIDE FOR OATHS, TO PROVIDE FOR COMPENSATION AND TO PROVIDE FOR MEETINGS; AMENDING SECTION 22-2806, IDAHO CODE, TO REVISE THE NAME OF THE COMMISSION; AMENDING SECTION 22-2809, IDAHO CODE, TO PROVIDE THAT CERTAIN REGISTERED BEEKEEPERS SHALL NOT VOTE AT REFERENDUMS AND TO REVISE THE NAME OF A FUND; AMENDING SECTIONS 22-2813 AND 22-2814, IDAHO CODE, TO REVISE THE NAME OF A FUND; AND AMENDING SECTIONS 67-450D AND 67-5303, IDAHO CODE, TO REVISE THE NAME OF THE COMMISSION; AND DECLARING AN EMERGENCY.

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

SECTION 1. 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 chapter, unless a different meaning clearly appears from the context:

- (1) "Commission" means the Idaho honey advertising commission.
- (2) "Honey 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 2. That Section 22-2804, Idaho Code, be, and the same is hereby repealed.



SECTION 3. 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 22-2804, Idaho Code, and to read as follows:

22-2804. COMMISSION -- MEMBERS -- QUALIFICATIONS -- APPOINTMENT -- COMPENSATION. (1) There is hereby created and established in the department of agriculture the Idaho honey commission to be known and designated as such, and shall be composed of the director of the department and three (3) members who shall be honey producers or beekeepers.

(2) Each member shall be a resident citizen of the state of Idaho for a period of five (5) years prior to his appointment, shall be a commercial beekeeper as defined in section 22-2502, Idaho Code, actively engaged in honey production, registered as a beekeeper with the Idaho department of agriculture, and deriving a substantial portion of his income from honey production, or be the directing or managing head of a corporation, firm, partnership or other business unit that derives a substantial portion of its income from honey production. To continue as a member of the commission each member must remain qualified pursuant to the provisions of this section.

(3) The executive committee of the Idaho honey industry association may request the removal of a commissioner, with or without cause, by a majority vote. Upon receipt of such a request, the governor may immediately withdraw the commissioner's appointment.

(4) The Idaho honey industry association shall meet for the purpose of nominating members of the commission. The board of directors shall review the names of active beekeepers in Idaho that meet the qualifications as provided in this section. By June 1 of each year, the names of two (2) honey producers or beekeepers nominated by the association for each vacancy occurring on the commission shall be submitted to the governor for his consideration. From such list of nominees, the governor shall designate and appoint one (1) member for each vacancy on the commission.

(5) Members shall serve for a term of three (3) years. Terms shall expire on the last day of June of the year in which the term for which the members was appointed terminates. Provided however, each member shall serve until his respective successor is appointed and qualified. Appointments to fill vacancies shall be for the balance of the unexpired term. On and after the effective date of this act, terms that are currently vacant or held by the commission members shall expire and be filled on the following schedule: one (1) member term shall expire on June 30, 2015; one (1) member term shall expire on June 30, 2016; and one (1) member term shall expire on June 30, 2017.

(6) Commission members shall elect a chairman. The chairman may delegate the function of the Idaho honey commission to an administrator whose function will be subject to the approval of the Idaho honey commission.

(7) A majority of the members of the commission shall constitute a quorum for the transaction of all business and the carrying out of the duties of the commission. Before entering on the discharge of their duties as members of the commission, each member shall take and subscribe to the oath of office prescribed by law.

(8) Each member of the commission shall be compensated as provided by section 59-509(n), Idaho Code. The commission shall meet regularly once each fiscal year at a date established by said commission in its designated business office, and it shall fix the time and place of special meetings as may be deemed necessary by the chairman of the commission.

SECTION 4. That Section 22-2806, Idaho Code, be, and the same is hereby amended to read as follows:

22-2806. ADMINISTRATION, WHERE VESTED. The administration of this act shall be vested in the Idaho honey advertising commission which shall administer the taxes levied and imposed by this act.

SECTION 5. That Section 22-2809, Idaho Code, be, and the same is hereby amended to read as follows:

22-2809. LEVY AND COLLECTION OF TAXES -- CHANGE OF TAX BY REFERENDUM -- VIOLATIONS -- PENALTY. (1) There is hereby levied and imposed upon each colony or hive of bees within the state of Idaho on July 1 of each year a continuing annual tax of five cents (5¢) per hive or colony of bees beginning in the year 1970 for the purpose of carrying out the provisions of this chapter. Hobbyist beekeepers, as defined in chapter 25, title 22, Idaho Code, are exempt from taxation under this section. Provided however, that any hobbyist beekeeper who desires to support the efforts of the commission, as set forth in section 22-2807, Idaho Code, and desires to be included in registration lists distributed as authorized under section 22-2815, Idaho Code, may register with the commission for that purpose by remitting an annual registration fee of ten dollars (\$10.00).

(2) 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, and is not exempt from taxation as provided in subsection (1) of this section, 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.

(3) 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.

(4) Said tax shall be a lien upon all apicultural products, equipment, bees and property of the person owning or controlling such bees and shall be prior to all other liens or encumbrances except liens which are declared prior by operation of the statutes of this state.

(5) Hives brought into the state for indoor winter storage prior to moving to another state for pollination or honey production are exempt from paying fees and taxes as provided for in this section. Provided however, registration shall be required and a minimum of the following information shall be supplied: location of the storage, approximate dates the hive or hives will be brought into and leave the state, name, address and telephone number of the owner of the bees, and name, address and telephone number of an in-state contact who will have knowledge of the hive or hives being stored in the state.

SECTION 6. That Section 22-2813, Idaho Code, be, and the same is hereby amended to read as follows:

22-2813. PAYMENT OF EXPENSES AND COSTS. All expenses and costs incurred in the administration of this 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 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 7. That Section 22-2814, Idaho Code, be, and the same is hereby amended to read as follows:

22-2814. CREDITING OF FUNDS. All moneys which have heretofore been credited to the general fund under the provisions of this chapter are hereby transferred to the Idaho honey advertising fund.

SECTION 8. That Section 67-450D, Idaho Code, be, and the same is hereby amended to read as follows:

67-450D. INDEPENDENT FINANCIAL AUDITS -- DESIGNATED ENTITIES. (1) Notwithstanding any other provisions of the Idaho Code relating to audit requirements regarding the entities hereinafter designated, beginning on July 1, 2010, the requirements set forth in this section shall constitute the minimum audit requirements for the following entities:

Alfalfa and clover seed commission;  
Idaho apple commission;  
Idaho aquaculture commission;  
Idaho barley commission;  
Idaho bean commission;  
Idaho beef council;  
Idaho cherry commission;  
Idaho dairy products commission;  
Idaho food quality assurance institute;  
Idaho forest products commission;  
Idaho grape growers and wine producers commission;  
Idaho honey advertising commission;  
Idaho hop grower's commission;  
Idaho mint commission;  
Idaho oilseed commission;  
Idaho pea and lentil commission;  
Commission on pesticide management;  
Idaho potato commission;  
Idaho rangeland resources commission;  
Soil and water conservation commission;  
Idaho wheat commission.

(2) The minimum requirements for any audit performed under the provisions of this section are:

(a) Any entity whose annual expenditures (from all sources) exceed two hundred fifty thousand dollars (\$250,000) shall cause a full and complete audit of its financial statements to be made each fiscal year.

(b) Any entity whose annual expenditures (from all sources) exceed one hundred thousand dollars (\$100,000), but do not exceed two hundred fifty thousand dollars (\$250,000), in the current year shall have an annual audit or may elect to have its financial statements audited on a biennial basis. The first year that expenditures exceed one hundred thousand dollars (\$100,000) is the first year of the biennial audit period. The designated entity may continue the biennial audit cycle in subsequent years as long as the entity's annual expenditures during the first year of the biennial audit period do not exceed two hundred fifty thousand dollars (\$250,000). In the event that annual expenditures exceed two hundred fifty thousand dollars (\$250,000) in the current year following a year in which a biennial audit was completed, the designated entity shall complete an annual audit. In the event that annual expenditures in the current year do not exceed one hundred thousand dollars (\$100,000) following a year in which an annual or biennial audit was completed, the designated entity has no minimum audit requirement.

(c) Any entity whose annual expenditures (from all sources) do not exceed one hundred thousand dollars (\$100,000) has no minimum audit requirements under the provisions of this section.

(d) Federal audit requirements applicable because of expenditure of federal assistance supersede the minimum audit requirements provided in this section.

(3) All moneys received or expended by the entities identified in subsection (1) of this section shall be audited as specified in subsection (2) of this section by a certified public accountant designated by the entity, who shall furnish a copy of such audit to the director of the legislative services office 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 commission's fiscal year.

(4) Any entity identified in subsection (1) of this section that is not audited pursuant to the provisions of this section shall submit an unaudited annual statement of revenues, expenditures and fund balances to the director of the legislative services office, to the senate agricultural affairs committee and the house agricultural affairs committee, to the state controller and to the division of financial management.

(5) The right is reserved to the state of Idaho to audit the funds of the entities identified in this section at any time.

SECTION 9. 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 edu-

cation 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 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.

SECTION 10. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 26, 2015

CHAPTER 125  
(S.B. No. 1075)

AN ACT

RELATING TO CORRECTIONAL INDUSTRIES; AMENDING SECTION 20-412, IDAHO CODE, TO REVISE A PROVISION RELATING TO PRISONERS ENGAGED IN PRODUCTIVE WORK, TO PROVIDE THAT CERTAIN INMATES WHO ARE COMPENSATED SHALL NOT BE CONSIDERED TO BE AN EMPLOYEE OF OR EMPLOYED BY CERTAIN EMPLOYERS AND TO PROVIDE THAT AN INMATE ENGAGED IN PRODUCTIVE WORK SHALL NOT BE ENTITLED TO WORKER'S COMPENSATION OR UNEMPLOYMENT BENEFITS.

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

SECTION 1. That Section 20-412, Idaho Code, be, and the same is hereby amended to read as follows:

20-412. COMPENSATION -- AMOUNT -- CREDITING ACCOUNT OF PRISONER -- CIVIL RIGHTS -- PRISONERS NOT EMPLOYEES. Each prisoner, who is engaged in productive work ~~in the institution under the jurisdiction of the board of correction as a part of the correctional industries work program as authorized by this chapter,~~ may receive for his work such compensation as the board shall determine, to be paid out of any funds available in the correctional industries betterment account. Such compensation, if any, shall be in accordance with a graduated schedule based on quantity and quality of work performed and skill required for its performance. Compensation shall be credited to the account of the prisoner, and paid from the correctional industries betterment account.

Nothing in this section or in this act is intended to restore, in whole or in part, the civil rights of any inmate. No inmate who is compensated under this act shall be considered to be an employee of or employed by the state ~~or~~ the board of correction, ~~nor shall any or any private agricultural employer that is a party to a contract for inmate labor pursuant to section 20-413A, Idaho Code. No inmate come within any of the provisions of the workmen's engaged in productive work as authorized by this chapter shall be entitled to worker's compensation laws, or be entitled to any benefits thereunder or unemployment compensation under chapter 4 or chapter 13, title 72, Idaho Code,~~ whether on behalf of himself or any other person.

Approved March 26, 2015

CHAPTER 126  
(S.B. No. 1077)

AN ACT

RELATING TO DEATH CERTIFICATES; AMENDING SECTION 54-1142, IDAHO CODE, TO PROVIDE THAT CERTAIN PERSONS HAVE A DIRECT AND TANGIBLE INTEREST IN DEATH CERTIFICATES AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-1142, Idaho Code, be, and the same is hereby amended to read as follows:

54-1142. AUTHORITY IN ABSENCE OF OR UNCOVERED PROVISIONS IN A PREARRANGED FUNERAL PLAN. (1) If the decedent has not made a prearranged funeral plan as set forth in section 54-1139, Idaho Code, or to the extent any provisions relating to the disposition of the person's remains are not clearly covered in a prearranged funeral plan, the right to control the disposition of the remains of a deceased person or to determine provisions not clearly covered in a prearranged funeral plan vests in, and devolves upon the following in the order named:

- (a) The person designated in a written document executed by the decedent and acknowledged in the same manner as required for instruments conveying real property, and subject to such limitations, restrictions, or directions, as may be set forth in such document or, the person designated by the decedent as authorized to direct disposition as listed on the decedent's United States department of defense record of emergency data, DD form 93, or its successor form, if the decedent died while serving in military service as described in 10 U.S.C. 1481(a) (1) through (8) in any branch of the United States armed forces, United States reserve forces or national guard;
- (b) The person designated as agent under a durable power of attorney for health care executed by the decedent, unless such durable power of attorney for health care contains express and clear language denying such right;
- (c) The person designated in a durable power of attorney executed by the decedent, if such power of attorney contains express and clear language granting such right to the agent named in such power of attorney;
- (d) The competent surviving spouse of the decedent;
- (e) A majority of the competent surviving adult children of the decedent, provided that less than one-half (1/2) of the competent surviving adult children shall be vested with the right to control the disposition of the remains of the decedent if they have used reasonable efforts to notify all other competent surviving adult children of their instructions to dispose of the decedent's remains and are not aware of any opposition to those instructions on the part of more than one-half (1/2) of all competent surviving adult children;
- (f) The competent surviving parents or parent of the decedent, provided that if one (1) of the competent surviving parents is absent, the remaining competent surviving parent shall be vested with the right to control the disposition of the remains of the decedent after reasonable efforts have been made and are unsuccessful in locating the absent competent surviving parent;
- (g) The person appointed by a court of competent jurisdiction as the personal representative or administrator of the estate of the decedent;
- (h) The person nominated as the personal representative of the estate of the decedent in the will of the decedent;

(i) The competent adult person or persons entitled to inherit from the decedent under the intestate succession laws of the state of Idaho, respectively in the next degree of kinship, provided that if there is more than one (1) competent surviving adult person of the same degree of kinship, the majority of those persons, and provided further that less than the majority of competent surviving adult persons of the same degree of kinship shall be vested with the right to control the disposition of the remains of the decedent if those persons have used reasonable efforts to notify all other competent surviving adult persons of the same degree of kinship of their instructions to dispose of the decedent's remains and are not aware of any opposition to those instructions on the part of one-half (1/2) or more of all competent surviving adult persons of the same degree of kinship;

(j) If the persons listed above fail to exercise their right to dispose of the remains of the deceased person within forty (40) days of the death of the deceased person, the person acting as guardian of the ward at the time of the ward's death, or if no guardian was then acting, the person acting as conservator of the protected person at the time of the protected person's death, has the authority to dispose of the deceased person's remains, including cremation of the remains.

(2) If any person to whom the right of control has vested pursuant to the foregoing has been charged with first or second degree murder or voluntary manslaughter in connection with the decedent's death, and those charges are known to the funeral director or cemetery authority, the right of control is relinquished and passed on to the next qualifying person as listed above as if the charged person did not exist; provided however, that if the charges against such person are dropped, or if such person is acquitted of the charges, the right of control is returned to the person.

(3) For purposes of this section:

(a) "Adult" means an individual who is eighteen (18) years of age or older;

(b) "Child" means a natural or adopted child of the decedent;

(c) "Competent" means the individual has not been declared incompetent by a court of law, or who has been declared competent by a court of law after a prior declaration of incompetence;

(d) "Durable power of attorney" means a power of attorney described in section 15-12-102, Idaho Code, or any similar document properly executed under the laws of another jurisdiction; and

(e) "Durable power of attorney for health care" means the document described in chapter 45, title 39, Idaho Code, or any similar document properly executed under the laws of another jurisdiction;

(f) "Will" means any testamentary device which is valid under the Idaho probate code, including, but not limited to, sections 15-2-503, 15-2-504 and 15-2-506, Idaho Code, whether or not originally executed in, or under the laws of, the state of Idaho.

(4) (a) A cemetery authority or licensed funeral director or a licensed hospital or its authorized personnel may permit or assist in, and a physician may perform, an autopsy of any remains of a decedent in its custody:

(i) If the decedent, prior to his death, authorizes an autopsy in his will or in another written instrument, including, but not limited to, a durable power of attorney for health care; or

(ii) Upon the receipt of a written authorization signed by, telegraphed from, or received by facsimile transmission from, a person representing himself to be the person who is entitled under this section to control the disposition of the remains of the decedent, or to be a coroner or any other duly authorized public officer; or

(iii) Upon the receipt of an oral authorization obtained by telephone, and recorded on tape or other recording device, from a per-



son representing himself to be the person who is entitled under this section to control the disposition of the remains of the decedent, or to be a coroner or any other duly authorized public officer.

(b) A cemetery authority or a licensed funeral director of a licensed hospital or its authorized personnel is not liable for permitting or assisting, and a physician is not liable for performing, an autopsy pursuant to the authorization provided in paragraph (a) of this subsection unless he has actual notice that such representation is untrue at the time the autopsy is performed. If such authorization is contained in a will, the autopsy may be performed regardless of the validity of the will in other respects and regardless of whether the will may not be offered for, or admitted to, probate until a later date.

(c) This subsection shall not authorize the obtaining of an oral authorization by telephone, recorded on tape or other recording device, for the autopsy of a deceased person if it is made known to the physician who is to perform the autopsy that the deceased person was, at the time of his death, a member of a religion or group which opposes autopsies.

(5) Persons designated in subsection (1) of this section have a direct and tangible interest in the death certificate of a decedent pursuant to section 39-270(b), Idaho Code.

Approved March 26, 2015

CHAPTER 127  
(S.B. No. 1078)

AN ACT

RELATING TO MORTGAGE INSURANCE; AMENDING SECTION 41-2653, IDAHO CODE, TO REMOVE LANGUAGE RELATING TO COVERAGE LIMITS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 41-2653, Idaho Code, be, and the same is hereby amended to read as follows:

41-2653. LIMITS OF RISK. (1) ~~The insurer shall limit its coverage to an amount not exceeding twenty-five percent (25%) of the entire indebtedness to the insured, or in lieu thereof, the insurer may elect to pay the entire indebtedness to the insured, and acquire title to the authorized real property security.~~

(2) The insurer shall not retain risk as to any one (1) loan, or as to all loans secured by properties in a single housing tract or a contiguous tract, in an amount in excess of ten percent (10%) of the insurer's policyholders' surplus. In determining the amount of risk retained, applicable reinsurance in an assuming insurer authorized to transact insurance in this state or approved by the director shall be deducted from the total direct risk insured. For the purposes of this section "contiguous" means not separated by more than one-half (1/2) of a mile.

(3) The insurer shall not at any time have outstanding aggregate risk liability, net of applicable reinsurance, under mortgage guaranty insurance in amount in excess of twenty-five (25) times its policyholders' surplus.

(4) The director may waive the requirement of subsection (3) of this section upon a written request of the insurer and finding that the insurer is in compliance with any requirements or conditions imposed by the insurer's state of domicile and the insurer's policyholder surplus is reasonable in relationship to the insurer's aggregate insured risk and adequate to its fi-

nancial needs. In reviewing a written request for approval to exceed the twenty-five (25) times its policyholders' surplus limitation, the director may retain outside experts to assist in the review. The insurer shall bear the cost of outside experts retained for the review.

(54) If at any time the insurer's outstanding risk liability as to mortgage guaranty insurance exceeds the limitations stated in subsection (32) of this section and the insurer has not received a written waiver from the director, the insurer shall accept no new mortgage guaranty insurance risks while such excess exists.

(65) The director may suspend or revoke the certificate of authority of an insurer which violates the provisions of this section.

Approved March 26, 2015

CHAPTER 128  
(S.B. No. 1080, As Amended)

AN ACT

RELATING TO GENETIC COUNSELORS; AMENDING TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 56, TITLE 54, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE A SCOPE OF PRACTICE FOR GENETIC COUNSELORS, TO PROVIDE EXEMPTIONS FOR LICENSURE, TO REQUIRE A LICENSE TO PRACTICE GENETIC COUNSELING, TO ESTABLISH THE GENETIC COUNSELORS LICENSING BOARD, TO PROVIDE FOR POWERS OF THE BOARD, TO SPECIFY REQUIREMENTS FOR LICENSURE, TO PROVIDE FOR ENDORSEMENT LICENSURE, TO PROVIDE FOR A PROVISIONAL LICENSE, TO PROVIDE FOR THE LICENSING OF EXISTING GENETIC COUNSELORS, TO PROVIDE FOR LICENSE RENEWAL, TO ESTABLISH FEES FOR LICENSURE, TO PROVIDE FOR DENIAL OF A LICENSE AND DISCIPLINE, TO PROVIDE FOR CONFIDENTIALITY BY LICENSEES AND TO PROHIBIT CERTAIN ACTS.

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

SECTION 1. That Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 56, Title 54, Idaho Code, and to read as follows:

CHAPTER 56  
GENETIC COUNSELORS

54-5601. SHORT TITLE. This chapter shall be known and may be cited as the "Genetic Counselors Licensing Act."

54-5602. DEFINITIONS. As used in this chapter:

- (1) "ABGC" means the American board of genetic counseling, inc., its successor or equivalent.
- (2) "ABMG" means the American board of medical genetics, its successor or equivalent.
- (3) "ACS" means active candidate status conferred by the American board of genetic counseling.
- (4) "Board" means the genetic counselors licensing board.
- (5) "Bureau" means the bureau of occupational licenses.
- (6) "Certification" means the voluntary process by which a nongovernmental agency grants recognition and use of a credential to individuals who have met predetermined and standardized criteria.
- (7) "Certification examination" means the certification examination for genetic counselors administered by a certifying agency approved by the board.

(8) "CEU" means continuing education unit as defined by the board by rule.

(9) "Code of ethics" means the current code of ethics adopted by the board.

(10) "Genetic counseling" means performing acts of a genetic counselor as described in section 54-5603, Idaho Code.

(11) "Genetic counselor" means an individual who is licensed under this chapter to engage in the practice of genetic counseling.

(12) "Licensed physician" means a person holding a license issued under chapter 18, title 54, Idaho Code.

(13) "NSGC" means the national society of genetic counselors, its successor or equivalent.

(14) "Person" means an individual and does not mean an association of individuals or a legal entity.

54-5603. SCOPE OF PRACTICE. A licensed genetic counselor may perform the following acts as a genetic counselor:

(1) Obtain and evaluate individual, family and medical histories to determine genetic risk for genetic or medical conditions and diseases in a patient, his offspring and other family members;

(2) Discuss the features, natural history, means of diagnosis, genetic and environmental factors and management of risk for genetic medical conditions and diseases;

(3) Identify and coordinate genetic laboratory tests and other diagnostic studies as appropriate for the genetic assessment;

(4) Integrate genetic laboratory test results and other diagnostic studies with personal and family medical history to assess and communicate risk factors for genetic medical conditions and diseases;

(5) Explain the clinical implications of genetic laboratory tests, other diagnostic studies and results;

(6) Evaluate the client's or family's responses to the condition or risk of recurrence and provide client-centered counseling and anticipatory guidance;

(7) Identify and utilize community resources that provide medical, educational, financial and psychosocial support and advocacy; and

(8) Provide written documentation of medical, genetic and counseling information for families and health care professionals.

54-5604. EXEMPTIONS FOR LICENSURE. The provisions of this act shall not apply to the following:

(1) Any person who is not a genetic counselor but is licensed under title 54, Idaho Code, acting within the scope of his profession and doing work of a nature consistent with his training, provided that he does not represent himself by any title or practice description prohibited by section 54-5605;

(2) Any person employed as a genetic counselor by the federal government or an agency thereof if such person provides genetic counseling services solely under the direction and control of the organization by which he is employed;

(3) A student enrolled in an ABGC-accredited genetic counseling educational program if genetic counseling services performed by the student are an integral part of the student's course of study and are performed under the direct supervision of a licensed genetic counselor assigned to supervise the student;

(4) An employee of a facility licensed under the provisions of chapter 13, title 39, Idaho Code, who is designated in writing to be responsible for that facility's genetic counseling program and who receives regular consultation from a licensed genetic counselor; and

(5) Any person who holds a license to practice medicine and surgery, osteopathic medicine and surgery, or osteopathic medicine under chapter 18,

title 54, Idaho Code, provided that he does not represent himself as a licensed genetic counselor.

54-5605. GENETIC COUNSELOR LICENSE REQUIRED. Effective July 1, 2016, a license shall be required to engage in the practice of genetic counseling. No person shall hold himself out as a genetic counselor unless he is licensed in accordance with the provisions of this chapter. No person who is not so licensed may use in connection with his name or place of business the title genetic counselor, licensed genetic counselor, gene counselor, genetic consultant, genetic associate or any words, letters, abbreviations or insignia indicating or implying that a person holds a genetic counselor license unless such person holds a genetic counselor license.

54-5606. BOARD -- ORGANIZATION AND MEETINGS. (1) There is hereby established in the department of self-governing agencies, bureau of occupational licenses, the genetic counselors licensing board.

(2) The board shall consist of three (3) members, two (2) of whom shall be fully licensed genetic counselors and one (1) of whom shall be a licensed physician. All board members shall be residents of this state.

(3) Initial appointments to the board shall be for the following terms: one (1) genetic counselor member shall serve a term of one (1) year; one (1) genetic counselor member shall serve a term of two (2) years; and the physician member shall serve a term of three (3) years. Thereafter, the term of office for each member of the board shall be three (3) years.

(4) Board members shall be appointed by the governor and shall serve at the pleasure of the governor.

(5) Each genetic counselor member of the board shall:

(a) Except for the initial appointments, be currently licensed and in good standing to engage in the practice of genetic counseling in this state. The initial genetic counselor members of the board must meet the qualifications for licensure under this act;

(b) At the time of appointment have been actively engaged in the practice of genetic counseling for at least one (1) year of the last five (5) years; and

(c) Be certified by the ABGC, ABMG or NSGC.

(6) In the event of the death, resignation or removal of any board member before the expiration of the term to which the member is appointed, the vacancy shall be filled for the unexpired portion of the term in the same manner as the original appointment.

(7) The board shall meet annually and at such 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 rule. A majority of the board shall constitute a quorum at any meeting or hearing.

(8) Members of the board shall be reimbursed for expenses as provided in section 59-509(b), Idaho Code.

54-5607. BOARD POWERS. The board shall have the following powers:

(1) To receive applications for licensure, determine the qualifications of persons applying for licensure, provide licenses to applicants qualified under the provisions of this chapter and reinstate and deny licenses;

(2) To establish by rule and collect fees as prescribed by this chapter;

(3) To maintain records necessary to carry out its duties under this chapter;

(4) 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;

(5) To prescribe by rule the minimum number of and qualifications for continuing education units (CEUs) to be required of each genetic counselor seeking to obtain or renew a license in the state of Idaho and for the approval of continuing education courses;

(6) To examine for, deny, approve, issue, revoke and suspend licenses pursuant to this chapter and to conduct investigations and hearings in connection with such actions;

(7) Establish requirements for reinstatement and renewal of licenses;

(8) To adopt and revise such rules as may be necessary to carry into effect the provisions of this chapter in compliance with chapter 52, title 67, Idaho Code. The rules shall include, but shall not be limited to, a code of ethics for genetic counselors and licensed genetic counselor standards of practice;

(9) 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;

(10) The board may recover the actual costs and fees, including attorney's fees, incurred by the board in the investigation and prosecution of a licensee upon the finding of a violation of this chapter or a rule adopted or an order issued by the board under this chapter;

(11) To take such action as may be necessary to enforce the provisions of this chapter and to regulate the practice of genetic counseling;

(12) In a final order the board may impose a civil penalty not to exceed one thousand dollars (\$1,000) for each violation by a licensee of this chapter or of rules adopted by the board; and

(13) To authorize, by written agreement, the bureau of occupational licenses as its agent to act in its interest and, in its discretion, to contract with the bureau of occupational licenses for those services deemed necessary for the proper administration of this chapter.

54-5608. REQUIREMENTS FOR ISSUANCE OF A LICENSE. In addition to such other information as the board may require by rule, each applicant under this act shall:

(1) Hold a master's degree or higher in genetics or a related field of study as approved by the board;

(2) Submit an application in the form prescribed by the board;

(3) Pay the fee determined by the board by rule; and

(4) Provide evidence satisfactory to the board of having successfully passed a nationally recognized competency examination approved by the board by rule.

54-5609. ENDORSEMENT LICENSURE. An applicant who satisfies the board that he is licensed or registered under the laws of another state, territory or jurisdiction of the United States, which in the opinion of the board imposes substantially equivalent licensing requirements as this act, may, upon the payment of the required fee and the approval of the application, be licensed by endorsement pursuant to this act.

54-5610. PROVISIONAL LICENSE. (1) The board may grant a person who has been granted ACS a provisional genetic counselor license to practice genetic counseling upon filing an application with the board and payment of the fee established by the board by rule.

(2) The provisional license shall be valid for one (1) year from the date of its issue and may be renewed at the discretion of the board for additional one (1) year periods up to a maximum of four (4) renewals. A provisional license shall expire automatically upon the issuance of a full license.

(3) A provisional licensed genetic counselor shall work under the general supervision of a licensed genetic counselor or a licensed physician

at all times during which the provisionally licensed genetic counselor performs genetic counseling. An application for extension of the provisional license shall be signed by the supervisor. General supervision shall not require the physical presence of the provisional licensee's supervisor at the location where such provisional licensee provides genetic counseling services; however, the supervisor shall be readily accessible by telephone or electronically for consultation and assistance whenever such provisional licensee provides such services.

54-5611. LICENSING OF EXISTING GENETIC COUNSELORS. Until July 1, 2016, an individual who does not qualify for licensure under this chapter may apply to the board for licensure, and the board may approve the application if the individual has paid the required fees and:

(1) Has worked as a genetic counselor for a minimum of ten (10) years preceding the enactment of these provisions with at least five (5) of those years being the five (5) years immediately preceding the application for a license;

(2) Holds a master's degree or higher in genetics or a related field of study as approved by the board;

(3) Submits three (3) letters of recommendation from individuals who have worked with the applicant in an employment setting, including at least one (1) letter from a genetic counselor who qualifies for licensure under this chapter and one (1) letter from either a clinical geneticist certified by ABMG or a medical geneticist certified by ABMG; and

(4) Provides documentation satisfactory to the board that he has completed at least two hundred (200) hours of formal training in genetic counseling as determined by the board and has practiced genetic counseling for at least five (5) hours per week on average for at least the five (5) years immediately prior to the date of application.

54-5612. LICENSE RENEWAL. (1) All licenses issued under the provisions of this chapter shall be subject to annual renewal and shall expire on the licensee's birthday unless renewed in the manner prescribed by the board regarding applications for renewal, continuing education and fees and in compliance with section 67-2614, Idaho Code.

(2) In addition to such other requirements as the board may establish by rule, each applicant shall present satisfactory evidence when seeking license renewal that in the period since the license was issued or last renewed the applicant has completed the amount of board-approved continuing education required by the board by rule. The board may waive all or a portion of these requirements or grant an extension of time in which to complete these requirements upon a finding of good cause.

54-5613. FEES. (1) The board shall establish by rule fees for licensure under the provisions of this chapter as follows:

(a) An application fee not to exceed five hundred dollars (\$500);

(b) A fee established by rule for an initial full license not to exceed five hundred dollars (\$500);

(c) A fee established by rule for a provisional license, an endorsement license and for an existing genetic counselor license not to exceed five hundred dollars (\$500);

(d) The fee established by rule for annual renewal of licenses not to exceed five hundred dollars (\$500); and

(e) Fees charged pursuant to paragraph (b), (c) or (d) of this subsection shall be in addition to the application fee.

(2) All fees received under the provisions of this chapter shall be non-refundable and 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.

54-5614. DENIAL OF LICENSE AND DISCIPLINARY PROCEEDINGS. (1) The board may refuse to issue, refuse to renew, revoke, suspend or otherwise sanction a licensee upon the following grounds:

- (a) Fraud or deception in procuring or renewing the license;
- (b) Having been found guilty, convicted, or placed on probation; having entered into a guilty plea that is accepted by the court; forfeited bail, bond or collateral deposited to secure a defendant's appearance; or having received a withheld judgment or suspended sentence of a felony by a court of competent jurisdiction;
- (c) Gross incompetence or unprofessional conduct;
- (d) Fraud or deceit in connection with services rendered as a genetic counselor or in establishing qualifications for licensure under this chapter;
- (e) Violation of any of the provisions of this chapter or any of the rules promulgated by the board under the authority of this chapter;
- (f) Failure to comply with a board order;
- (g) Having had a license revoked or suspended or having been otherwise disciplined by the board or the proper authorities of another state, territory or country;
- (h) Habitual drunkenness or addiction to habit-forming drugs, either of which impairs the ability to perform work without danger to himself or the public;
- (i) Aiding or abetting any person not licensed or otherwise authorized under this chapter in the practice of genetic counseling in the state of Idaho;
- (j) Representing himself as a licensed genetic counselor when he is unlicensed;
- (k) Failing to maintain the requirements for a license or failing to achieve the minimum CEUs required for the renewal of a license;
- (l) Having a license or certification in a related field revoked or suspended or having been otherwise disciplined in Idaho or any other state; or
- (m) Unethical or unprofessional conduct as defined by the rules of the board or the code of ethics established by the rules of the board.

(2) The board may reinstate any revoked or suspended license upon such terms as it may determine.

(3) The board may by rule provide a procedure for an applicant to request an exemption review for a felony or lesser crime conviction. The applicant shall bear the burden and financial responsibility of providing all evidence, documentation and proof of suitability for licensure required by the board for exemption review.

54-5615. CONFIDENTIAL COMMUNICATIONS. No licensee shall disclose any information that he may have acquired from a client consulting him in his professional capacity that was necessary to enable him to render services in his professional capacity to those persons, except:

(1) With the written consent of that client or, in the case of death or disability, the written consent of the client's personal representative, other person or entity authorized to sue, or the beneficiary of an insurance policy on their life, health or physical condition;

(2) That a licensee shall not be required to treat as a confidential communication anything that reveals the contemplation or execution of a crime or harmful act;

(3) When the client is a minor under the laws of this state, and the information acquired by the licensee indicates that the minor was the victim or

subject of a crime, the licensee may testify fully in relation to such information upon any examination, trial or other proceeding in which the commission of such a crime is the subject of the inquiry;

(4) When the client waives the privilege by bringing charges or other claims against the licensee; or

(5) To the board or its authorized agent in connection with an investigation or other proceeding by the board or its agent under this chapter.

54-5616. CERTAIN ACTS PROHIBITED. It shall be unlawful and a misdemeanor for any person to engage in any of the following acts:

(1) To practice genetic counseling or to represent himself to be a licensed genetic counselor as defined in this chapter without having at the time of so doing, a valid license issued under this chapter; or

(2) To use in connection with his name or place of business, the title genetic counselor or any words indicating or implying that the person holds a genetic counselor license unless he is licensed in accordance with this chapter.

Approved March 26, 2015

CHAPTER 129  
(S.B. No. 1087)

AN ACT

RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5205, IDAHO CODE, TO PROVIDE AN ADDITIONAL PREFERENCE IN ADMISSION TO PUBLIC CHARTER SCHOOLS.

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. The purpose of the charter petition is to present the proposed public charter school's academic and operational vision and plans, demonstrate the petitioner's capacities to execute the proposed vision and plans and provide the authorized chartering entity a clear basis for assessing the applicant's plans and capacities. An approved charter petition shall not serve as the school's performance certificate.

(a) A petition to establish a new public charter school, including a public virtual charter school, shall be signed by not fewer than thirty (30) qualified electors of the attendance area designated in the petition, unless it is a petition for approval by an authorized chartering entity permitted pursuant to subsection (1) (c) or (1) (d) of section 33-5202A, Idaho Code. Proof of elector qualifications shall be provided with the petition. A petition to establish a new public charter school may be submitted directly to an authorized chartering entity permitted pursuant to subsection (1) (c) or (1) (d) of section 33-5202A, Idaho Code; provided however, that no such individual authorized chartering entity shall approve more than one (1) new public charter school each year within the boundaries of a single school district. Except as provided in this paragraph, authorized chartering entities permitted pursuant to the provisions of subsection (1) (c) or (1) (d) of section 33-5202A, Idaho Code, shall be governed by the same laws and rules



in approving new public charter schools as the public charter school commission.

(b) A petition to establish a new public virtual school shall not be submitted directly to a local school district board of trustees. Except as provided in paragraph (a) of this subsection, a petition to establish a new public charter school, other than a new public virtual school, shall first be submitted to the local board of trustees in which the public charter school will be located. A petition shall be considered to be received by an authorized chartering entity as of the next regularly scheduled meeting of the authorized chartering entity after submission of the petition.

(c) The board of trustees may either: (i) consider the petition and approve the charter; or (ii) consider the petition and deny the charter; or (iii) refer the petition to the public charter school commission, but such referral shall not be made until the local board has documented its due diligence in considering the petition. Such documentation shall be submitted with the petition to the public charter school commission. If the petitioners and the local board of trustees have not reached mutual agreement on the provisions of the charter, after a reasonable and good faith effort, within seventy-five (75) days from the date the charter petition is received, the petitioners may withdraw their petition from the local board of trustees and may submit their charter petition to the public charter school commission. Documentation of the reasonable and good faith effort between the petitioners and the local board of trustees must be submitted with the petition to the public charter school commission.

(d) A petition to convert an existing traditional public school shall be submitted to the board of trustees of the district in which the school is located for review and approval. The petition shall be signed by not fewer than sixty percent (60%) of the teachers currently employed by the school district at the school to be converted, and by one (1) or more parents or guardians of not fewer than sixty percent (60%) of the students currently attending the school to be converted. Each petition submitted to convert an existing school or to establish a new charter school shall contain a copy of the articles of incorporation and the bylaws of the nonprofit corporation, which shall be deemed incorporated into the petition.

(2) Not later than seventy-five (75) days after receiving a petition, the authorized chartering entity shall hold a public hearing for the purpose of discussing the provisions of the charter, at which time the authorized chartering entity shall consider the merits of the petition and the level of employee and parental support for the petition. In the case of a petition submitted to the public charter school commission, such public hearing must be not later than seventy-five (75) days after receipt of the petition, which may be extended for an additional specified period of time if both parties agree to an extension. Such agreement shall be established in writing and signed by representatives of both parties.

In the case of a petition for a public virtual charter school, if the primary attendance area described in the petition of a proposed public virtual charter school extends within the boundaries of five (5) or fewer local school districts, the prospective authorizer shall provide notice in writing of the public hearing no less than thirty (30) days prior to such public hearing to those local school districts. Such public hearing shall include any oral or written comments that an authorized representative of the local school districts may provide regarding the merits of the petition and any potential impacts on the school districts.

In the case of a petition for a non-virtual public charter school submitted to the public charter school commission, the board of the district in which the proposed public charter school will be physically located,

shall be notified of the hearing in writing, by the public charter school commission, no less than thirty (30) days prior to the public hearing. Such public hearing shall include any oral or written comments that an authorized representative of the school district in which the proposed public charter school would be physically located may provide regarding the merits of the petition and any potential impacts on the school district. The hearing shall include any oral or written comments that petitioners may provide regarding any potential impacts on such school district. If the school district chooses not to provide any oral or written comments as provided for in this subsection, such school district shall notify the public charter school commission of such decision. This public hearing shall be an opportunity for public participation and oral presentation by the public. This hearing is not a contested case hearing as described in chapter 52, title 67, Idaho Code. Following review of any petition and any public hearing provided for in this section, the authorized chartering entity shall within seventy-five (75) days either:

- (a) Approve the charter;
- (b) Deny the charter; or
- (c) Provide a written response identifying the specific deficiencies in the petition.

If the authorized chartering entity exercises the option provided for in paragraph (c) of this subsection, then the petitioners may revise the petition and resubmit such within thirty (30) days. Within forty-five (45) days of receiving a revised petition, the authorized chartering entity shall review the revised petition and either approve or deny the petition based upon whether the petitioners have adequately addressed the specific deficiencies identified in the authorized chartering entity's written response, or based upon any other changes made to the petition, and upon no other criteria.

(3) An authorized chartering entity may approve a charter under the provisions of this chapter only if it determines that the petition contains the requisite signatures, the information required by subsections (4) and (5) of this section, and additional statements describing all of the following:

- (a) The proposed educational program of the public charter school, designed among other things, to identify what it means to be an "educated person" in the twenty-first century, and how learning best occurs. The goals identified in the program shall include how all educational 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; third, to pupils seeking to transfer from another Idaho public charter school at which they have been enrolled for at least one (1) year, provided that this admission preference shall be subject to an existing written agreement for such preference between the subject charter schools; fourth, to students residing within the primary attendance area of the public charter school; and ~~fourth~~ fifth, by an equitable selection process such as a lottery or other random method. If so stated in its petition, a new public charter school may include the children of full-time employees of the public charter school within the first priority group subject to the limitations therein. Otherwise, such children shall be included in the highest priority group for which they would otherwise be eligible. If capacity is insufficient to enroll all pupils who submit a timely application for subsequent school terms, then the admission procedures may provide that preference shall be given in the following order: first, to pupils returning to the public charter school in the second or any subsequent year of its operation; second, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the capacity of the public charter school; third, to siblings of pupils already enrolled in the public charter school; fourth, to pupils seeking to transfer from another Idaho public charter school at which they have been enrolled for at least one (1) year, provided that this admission preference shall be subject to an existing written agreement for such preference between the subject charter schools; fifth, to students residing within the primary attendance area of the public charter school; and ~~fifth~~ sixth, by an equitable selection process such as a lottery or other random method. There shall be no carryover from year to year of the list maintained to fill vacancies. A new lottery shall be conducted each year to fill vacancies which become available. If so stated in its

petition, a public charter school may include the following children within the second priority group subject to the limitations therein:

- (i) The children of full-time employees of the public charter school;
- (ii) Children who previously attended the public charter school within the previous three (3) school years, but who withdrew as a result of the relocation of a parent or guardian due to an academic sabbatical, employer or military transfer or reassignment.

Otherwise, such children shall be included in the highest priority group for which they would otherwise be eligible.

(l) The manner in which annual audits of the financial operations of the public charter school are to be conducted.

(m) The disciplinary procedures that the public charter school will utilize, including the procedure by which students may be suspended, expelled and reenrolled, and the procedures required by section 33-210, Idaho Code.

(n) A provision which ensures that all staff members of the public charter school will be covered by the public employee retirement system, federal social security, unemployment insurance, worker's compensation insurance, and health insurance.

(o) If the public charter school is a conversion of an existing traditional public school, the public school attendance alternative for students residing within the school district who choose not to attend the public charter school.

(p) A description of the transfer rights of any employee choosing to work in a public charter school that is approved by the board of trustees of a school district, and the rights of such employees to return to any noncharter school in the same school district after employment at such charter school.

(q) A provision which ensures that the staff of the public charter school shall be considered a separate unit for purposes of collective bargaining.

(r) The manner by which special education services will be provided to students with disabilities who are eligible pursuant to the federal individuals with disabilities education act, including disciplinary procedures for these students.

(s) A plan for working with parents who have students who are dually enrolled pursuant to section 33-203, Idaho Code.

(t) The process by which the citizens in the primary attendance area shall be made aware of the enrollment opportunities of the public charter school.

(u) A proposal for transportation services including estimated first year costs.

(v) A plan for termination of the charter by the board of directors, to include:

- (i) Identification of who is responsible for dissolution of the charter school;
- (ii) A description of how payment to creditors will be handled;
- (iii) A procedure for transferring all records of students with notice to parents of how to request a transfer of student records to a specific school; and
- (iv) A plan for the disposal of the public charter school's assets.

(4) An authorized chartering entity, except for a school district board of trustees, may approve a charter for a public virtual school under the provisions of this chapter only if it determines that the petition contains the requirements of subsections (3) and (5) of this section and the additional statements describing the following:

- (a) The learning management system by which courses will be delivered;
- (b) The role of the online teacher, including the consistent availability of the teacher to provide guidance around course material, methods of individualized learning in the online course and the means by which student work will be assessed;
- (c) A plan for the provision of professional development specific to the public virtual school environment;
- (d) The means by which public virtual school students will receive appropriate teacher-to-student interaction, including timely and frequent feedback about student progress;
- (e) The means by which the public virtual school will verify student attendance and award course credit. Attendance at public virtual schools shall focus primarily on coursework and activities that are correlated to the Idaho state thoroughness standards;
- (f) A plan for the provision of technical support relevant to the delivery of online courses;
- (g) The means by which the public virtual school will provide opportunity for student-to-student interaction; and
- (h) A plan for ensuring equal access to all students, including the provision of necessary hardware, software and internet connectivity required for participation in online coursework.

(5) The petitioner shall provide information regarding the proposed operation and potential effects of the public charter school including, but not limited to, the facilities to be utilized by the public charter school, the manner in which administrative services of the public charter school are to be provided and the potential civil liability effects upon the public charter school and upon the authorized chartering entity.

(6) An initial charter, if approved, shall be granted for a term of three (3) operating years. This term shall commence on the public charter school's first day of operation.

Approved March 26, 2015

CHAPTER 130  
(S.B. No. 1118)

AN ACT

APPROPRIATING MONEYS TO THE COMMISSION ON THE ARTS FOR FISCAL YEAR 2016; 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 Commission on the Arts, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$323,600	\$186,100	\$249,700	\$759,400
Miscellaneous Revenue				
Fund		89,800	16,300	106,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant				
Fund	<u>371,000</u>	<u>219,000</u>	<u>450,200</u>	<u>1,040,200</u>
TOTAL	\$694,600	\$494,900	\$716,200	\$1,905,700

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, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 26, 2015

CHAPTER 131  
(S.B. No. 1126)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF FINANCE FOR FISCAL YEAR 2016; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING LEGISLATIVE INTENT FOR THE MORTGAGE RECOVERY FUND.

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, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
State Regulatory				
Fund	\$5,906,500	\$1,682,100	\$61,400	\$7,650,000
Mortgage Recovery				
Fund		50,000		50,000
Securities Investor Training				
Fund	<u>50,000</u>	<u>0</u>	<u>0</u>	<u>50,000</u>
TOTAL	\$5,956,500	\$1,732,100	\$61,400	\$7,750,000

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Finance is authorized no more than sixty-four (64) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. LEGISLATIVE INTENT. The Department of Finance is hereby granted continuous appropriation authority for reimbursement of persons to whom an Idaho court awards actual damages resulting from acts constituting

violations of the Idaho Residential Mortgage Practices Act by a mortgage broker, mortgage lender or mortgage loan originator who was licensed or required to be licensed according to Section 26-31-109, Idaho Code.

Approved March 26, 2015

CHAPTER 132  
(S.B. No. 1127)

AN ACT  
APPROPRIATING MONEYS TO THE STATE LIQUOR DIVISION FOR FISCAL YEAR 2016; AND  
LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the State Liquor Division from the Liquor Control Fund, the following amounts to be expended for the designated expense classes, for the period July 1, 2015, through June 30, 2016:

FOR:

Personnel Costs	\$11,890,500
Operating Expenditures	5,908,700
Capital Outlay	<u>794,000</u>
TOTAL	\$18,593,200

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the State Liquor Division is authorized no more than two hundred twelve (212) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 26, 2015

CHAPTER 133  
(S.B. No. 1128)

AN ACT  
APPROPRIATING MONEYS TO THE OFFICE OF SPECIES CONSERVATION FOR FISCAL YEAR  
2016; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSI-  
TIONS.

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, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$442,100	\$562,700		\$1,004,800
Miscellaneous Revenue				
Fund		15,000		15,000
Federal Grant				
Fund	<u>587,300</u>	<u>198,400</u>	<u>\$12,000,000</u>	<u>12,785,700</u>
TOTAL	\$1,029,400	\$776,100	\$12,000,000	\$13,805,500

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, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 26, 2015

CHAPTER 134  
(S.B. No. 1129)

AN ACT

APPROPRIATING MONEYS TO THE STATE INDEPENDENT LIVING COUNCIL FOR FISCAL YEAR 2016; 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 State Independent Living Council, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$41,400	\$58,600		\$100,000
State Independent Living Council (Ded)				
Fund	244,000	91,700		335,700



	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant				
Fund	<u>48,900</u>	<u>23,900</u>	<u>\$100,600</u>	<u>173,400</u>
TOTAL	\$334,300	\$174,200	\$100,600	\$609,100

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the State Independent Living Council is authorized no more than four (4) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 26, 2015

CHAPTER 135  
(S.B. No. 1130)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO STATE LOTTERY FOR FISCAL YEAR 2016; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING LEGISLATIVE INTENT.

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, 2015, through June 30, 2016:

FOR:	
Personnel Costs	\$2,965,100
Operating Expenditures	2,648,200
Capital Outlay	<u>82,700</u>
TOTAL	\$5,696,000

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Idaho State Lottery is authorized no more than forty-five (45) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. LEGISLATIVE INTENT. It is the intent of the Legislature that amounts necessary to pay prizes, retailer commissions, advertising and promotional costs and gaming supplier vendor fees based on sales shall be continuously appropriated to the Idaho State Lottery under the provisions of Section 67-7428, Idaho Code.

Approved March 26, 2015

CHAPTER 136  
(S.B. No. 1131)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE LIEUTENANT GOVERNOR FOR FISCAL YEAR 2016; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND EXEMPTING APPROPRIATION OBJECT TRANSFER LIMITATIONS.

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

SECTION 1. There is hereby appropriated to the 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, 2015, through June 30, 2016:

FOR:

Personnel Costs	\$151,500
Operating Expenditures	<u>12,100</u>
TOTAL	\$163,600

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, 2015, through June 30, 2016, 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 2016, the Office of the Lieutenant Governor is hereby exempted from the provisions of Sections 67-3511(1) and (3), Idaho Code, allowing unlimited transfers between object codes, for all moneys appropriated to it for the period July 1, 2015, through June 30, 2016. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

Approved March 26, 2015

CHAPTER 137  
(S.B. No. 1132)

AN ACT

APPROPRIATING MONEYS TO THE REGULATORY BOARDS FOR FISCAL YEAR 2016; 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 Regulatory Boards, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. BOARD OF ACCOUNTANCY:					
FROM:					
State Regulatory					
Fund	\$276,300	\$253,600			\$529,900
II. BOARD OF PROF. ENGINEERS & LAND SURVEYORS:					
FROM:					
State Regulatory					
Fund	\$374,600	\$239,500	\$2,500		\$616,600
III. BUREAU OF OCCUPATIONAL LICENSES:					
FROM:					
State Regulatory					
Fund	\$2,186,500	\$1,345,700		\$52,500	\$3,584,700
IV. OUTFITTERS AND GUIDES LICENSING BOARD:					
FROM:					
State Regulatory					
Fund	\$377,300	\$203,100			\$580,400
V. REAL ESTATE COMMISSION:					
FROM:					
State Regulatory					
Fund	\$965,300	\$554,200			\$1,519,500
GRAND TOTAL	\$4,180,000	\$2,596,100	\$2,500	\$52,500	\$6,831,100

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, each of the programs in the Regulatory Boards is authorized no more than the number of full-time equivalent positions listed below at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

- Board of Accountancy ..... Four (4)
- Board of Prof. Engineers & Land Surveyors ..... Four (4)
- Bureau of Occupational Licenses ..... Thirty-five (35)
- Outfitters and Guides Licensing Board ..... Six (6)
- Real Estate Commission ..... Fifteen (15)

Approved March 26, 2015

CHAPTER 138  
(S.B. No. 1133)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 2016;  
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 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, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>I. ADMINISTRATION:</b>					
FROM:					
Fish and Game (Licenses)					
Fund	\$3,719,500	\$1,432,000	\$2,154,300		\$7,305,800
Fish and Game (Other)					
Fund	596,900	111,300			708,200
Fish and Game Set-Aside (Licenses)					
Fund	200	33,600			33,800
Fish and Game Set-Aside (Other)					
Fund	18,000	20,800			38,800
Expendable Big Game Depredation					
Fund		2,900			2,900
Fish and Game Expendable Trust					
Fund		7,200			7,200
Fish and Game Nonexpendable Trust					
Fund		3,600			3,600
Fish and Game (Federal)					
Fund	<u>4,075,000</u>	<u>2,758,600</u>	<u>31,700</u>		<u>6,865,300</u>
TOTAL	\$8,409,600	\$4,370,000	\$2,186,000		\$14,965,600
<b>II. ENFORCEMENT:</b>					
FROM:					
Fish and Game (Licenses)					
Fund	\$8,259,700	\$2,005,100	\$137,300		\$10,402,100
Fish and Game (Other)					
Fund	157,200	56,000			213,200
Fish and Game Set-Aside (Other)					
Fund		20,600			20,600
Fish and Game Expendable Trust					
Fund		26,400			26,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>Fish and Game (Federal)</b>					
Fund	<u>32,100</u>	<u>6,700</u>	<u>0</u>		<u>38,800</u>
TOTAL	\$8,449,000	\$2,114,800	\$137,300		\$10,701,100
<b>III. FISHERIES:</b>					
<b>FROM:</b>					
<b>Fish and Game (Licenses)</b>					
Fund	\$3,660,400	\$2,532,600	\$238,000		\$6,431,000
<b>Fish and Game (Other)</b>					
Fund	2,909,000	2,819,200	1,484,700		7,212,900
<b>Fish and Game Set-Aside (Licenses)</b>					
Fund	239,700	257,200			496,900
<b>Fish and Game Set-Aside (Other)</b>					
Fund	72,100	3,500			75,600
<b>Fish and Game Expendable Trust</b>					
Fund	48,000	634,200			682,200
<b>Fish and Game Nonexpendable Trust</b>					
Fund		33,200			33,200
<b>Fish and Game (Federal)</b>					
Fund	<u>11,880,100</u>	<u>10,038,500</u>	<u>957,800</u>		<u>22,876,400</u>
TOTAL	\$18,809,300	\$16,318,400	\$2,680,500		\$37,808,200
<b>IV. WILDLIFE:</b>					
<b>FROM:</b>					
<b>Fish and Game (Licenses)</b>					
Fund	\$4,206,900	\$3,045,200	\$89,700	\$174,800	\$7,516,600
<b>Fish and Game (Other)</b>					
Fund	467,300	965,100			1,432,400
<b>Fish and Game Set-Aside (Other)</b>					
Fund	916,300	401,800			1,318,100
<b>Fish and Game Expendable Trust</b>					
Fund	621,000	325,200			946,200
<b>Fish and Game Nonexpendable Trust</b>					
Fund	11,400	2,300			13,700
<b>Fish and Game (Federal)</b>					
Fund	<u>6,005,800</u>	<u>5,440,300</u>	<u>153,800</u>	<u>0</u>	<u>11,599,900</u>
TOTAL	\$12,228,700	\$10,179,900	\$243,500	\$174,800	\$22,826,900
<b>V. COMMUNICATIONS:</b>					
<b>FROM:</b>					
<b>Fish and Game (Licenses)</b>					
Fund	\$1,644,200	\$582,400	\$58,900		\$2,285,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Fish and Game (Other)					
Fund	95,400	251,300			346,700
Fish and Game Set-Aside (Other)					
Fund	96,700	16,500			113,200
Fish and Game Expendable Trust					
Fund	37,200	51,100			88,300
Fish and Game Nonexpendable Trust					
Fund		200			200
Fish and Game (Federal)					
Fund	<u>1,102,700</u>	<u>381,800</u>	<u>0</u>		<u>1,484,500</u>
TOTAL	\$2,976,200	\$1,283,300	\$58,900		\$4,318,400
VI. ENGINEERING:					
FROM:					
Fish and Game (Licenses)					
Fund	\$1,003,100	\$72,800	\$4,000		\$1,079,900
VII. WILDLIFE MITIGATION AND HABITAT CONSERVATION:					
FROM:					
Fish and Game (Licenses)					
Fund	\$634,500	\$516,200	\$8,600		\$1,159,300
Fish and Game (Other)					
Fund	53,500	7,800			61,300
Fish and Game Set-Aside (Licenses)					
Fund	3,400	1,329,800			1,333,200
Fish and Game Set-Aside (Other)					
Fund	2,000	100			2,100
Expendable Big Game Depredation					
Fund				\$600,000	600,000
Fish and Game (Federal)					
Fund	<u>485,900</u>	<u>380,000</u>	<u>0</u>	<u>0</u>	<u>865,900</u>
TOTAL	\$1,179,300	\$2,233,900	\$8,600	\$600,000	\$4,021,800
GRAND TOTAL	\$53,055,200	\$36,573,100	\$5,318,800	\$774,800	\$95,721,900

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Fish and Game is authorized no more than five hundred fifty-eight (558) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 26, 2015

CHAPTER 139  
(H.B. No. 62)

AN ACT

RELATING TO VICTIM RESTITUTION; AMENDING SECTION 10-1110, IDAHO CODE, TO PROVIDE FOR LIENS RESULTING FROM RESTITUTION OWED TO A CRIME VICTIM; AND AMENDING SECTION 11-101, IDAHO CODE, TO PROVIDE FOR EXECUTION ON JUDGMENTS FOR RESTITUTION OWED TO A CRIME VICTIM AND TO PROVIDE FOR A WRIT OF EXECUTION UNDER CERTAIN CONDITIONS.

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

SECTION 1. That Section 10-1110, Idaho Code, be, and the same is hereby amended to read as follows:

10-1110. FILING TRANSCRIPT OF JUDGMENTS -- LIEN ACQUIRED. A transcript or abstract of any judgment or decree of any court of this state or any court of the United States the enforcement of which has not been stayed as provided by law, if rendered within this state, certified by the clerk having custody thereof, may be recorded with the recorder of any county of this state, who shall immediately record and docket the same as by law provided, and from the time of such recording, and not before, the judgment so recorded becomes a lien upon all real property of the judgment debtor in the county, not exempt from execution, owned by him at the time or acquired afterwards at any time prior to the expiration of the lien; provided that where a transcript or abstract is recorded of any judgment or decree of divorce or separate maintenance making provision for installment or periodic payment of sums for maintenance of children or alimony or allowance for wife's support, such judgment or decree shall be a lien only in an amount for payments so provided, delinquent or not made when due. The lien resulting from recording of a judgment other than for support of a child or for restitution owed to a crime victim where the order of restitution has been recorded as a judgment pursuant to section 19-5305, Idaho Code, continues five (5) years from the date of the judgment, unless the judgment be previously satisfied, or unless the enforcement of the judgment be stayed upon an appeal as provided by law. A lien arising from the delinquency of a payment due under a judgment for support of a child issued by an Idaho court continues until five (5) years after the death or emancipation of the last child for whom support is owed under the judgment unless the underlying judgment is renewed, is previously satisfied or the enforcement of the judgment is stayed upon an appeal as provided by law. A lien arising from an order for restitution to a crime victim where the order of restitution has been recorded as a judgment pursuant to section 19-5305, Idaho Code, continues until twenty (20) years from the date of the judgment, unless the judgment be previously satisfied, or unless the judgment is stayed or set aside. The transcript or abstract above mentioned shall contain the title of the court and cause and number of action, names of judgment creditors and debtors, time of entry and amount of judgment.

SECTION 2. That Section 11-101, Idaho Code, be, and the same is hereby amended to read as follows:

11-101. TIME WITHIN WHICH EXECUTION MAY ISSUE -- STAY PENDING DISPOSITION OF MOTIONS. Except as provided in section 5-245, Idaho Code, for execution on judgments for support of a child and for execution on judgments for restitution to victims of crime, the party in whose favor judgment is given may, at any time within five (5) years after the entry thereof, have a writ of execution issued for its enforcement, subject to the right of

the court to stay execution as provided by the rules adopted by the supreme court. The party in whose favor a judgment for restitution to a victim of crime has been entered pursuant to section 19-5305, Idaho Code, may, at any time within twenty (20) years after the entry thereof, have a writ of execution issued for its enforcement, subject to the right of the court to stay execution as provided by the rules adopted by the supreme court.

Approved March 26, 2015

CHAPTER 140  
(H.B. No. 90)

AN ACT

RELATING TO TRANSPARENT AND ETHICAL GOVERNMENT; REPEALING SECTIONS 9-335 THROUGH 9-352, IDAHO CODE, RELATING TO THE PUBLIC RECORDS ACT; REPEALING SECTIONS 67-2340 THROUGH 67-2347, IDAHO CODE, RELATING TO THE OPEN MEETINGS LAW; REPEALING CHAPTER 7, TITLE 59, IDAHO CODE, RELATING TO ETHICS IN GOVERNMENT; REPEALING CHAPTER 2, TITLE 59, IDAHO CODE, RELATING TO PROHIBITIONS AGAINST CONTRACTS WITH OFFICERS; AMENDING THE IDAHO CODE, BY THE ADDITION OF A NEW TITLE 74, IDAHO CODE, RELATING TO TRANSPARENT AND ETHICAL GOVERNMENT, TO PROVIDE THE PUBLIC RECORDS ACT, TO PROVIDE FOR THE OPEN MEETINGS LAW, TO PROVIDE A RESERVED CHAPTER, TO PROVIDE THE ETHICS IN GOVERNMENT ACT AND TO PROVIDE PROHIBITIONS AGAINST CONTRACTS WITH OFFICERS; AND PROVIDING SEVERABILITY.

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

SECTION 1. That Sections 9-335 through 9-352, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Sections 67-2340 through 67-2347, Idaho Code, be, and the same are hereby repealed.

SECTION 3. That Chapter 7, Title 59, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Chapter 2, Title 59, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That the Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW TITLE, to be known and designated as Title 74, Idaho Code, and to read as follows:

TITLE 74  
TRANSPARENT AND ETHICAL GOVERNMENT

CHAPTER 1  
PUBLIC RECORDS ACT

74-101. DEFINITIONS. As used in this chapter:

(1) "Applicant" means any person formally seeking a paid or volunteer position with a public agency. "Applicant" does not include any person seeking appointment to a position normally filled by election.

(2) "Copy" means transcribing by handwriting, photocopying, duplicating machine and reproducing by any other means so long as the public record is not altered or damaged.

(3) "Custodian" means the person having personal custody and control of the public records in question. If no such designation is made by the public agency or independent public body corporate and politic, then custodian



means any public official having custody of, control of, or authorized access to public records and includes all delegates of such officials, employees or representatives.

(4) "Independent public body corporate and politic" means the Idaho housing and finance association as created in chapter 62, title 67, Idaho Code.

(5) "Inspect" means the right to listen, view and make notes of public records as long as the public record is not altered or damaged.

(6) "Investigatory record" means information with respect to an identifiable person, group of persons or entities compiled by a public agency or independent public body corporate and politic pursuant to its statutory authority in the course of investigating a specific act, omission, failure to act, or other conduct over which the public agency or independent public body corporate and politic has regulatory authority or law enforcement authority.

(7) "Law enforcement agency" means any state or local agency given law enforcement powers or which has authority to investigate, enforce, prosecute or punish violations of state or federal criminal statutes, ordinances or regulations.

(8) "Local agency" means a county, city, school district, municipal corporation, district, public health district, political subdivision, or any agency thereof, or any committee of a local agency, or any combination thereof.

(9) "Person" means any natural person, corporation, partnership, firm, association, joint venture, state or local agency or any other recognized legal entity.

(10) "Prisoner" means a person who has been convicted of a crime and is either incarcerated or on parole for that crime or who is being held in custody for trial or sentencing.

(11) "Public agency" means any state or local agency as defined in this section.

(12) "Public official" means any state, county, local district, independent public body corporate and politic or governmental official or employee, whether elected, appointed or hired.

(13) "Public record" includes, but is not limited to, any writing containing information relating to the conduct or administration of the public's business prepared, owned, used or retained by any state agency, independent public body corporate and politic or local agency regardless of physical form or characteristics.

(14) "Requester" means the person requesting examination and/or copying of public records pursuant to section 74-102, Idaho Code.

(15) "State agency" means every state officer, department, division, bureau, commission and board or any committee of a state agency including those in the legislative or judicial branch, except the state militia and the Idaho state historical society library and archives.

(16) "Writing" includes, but is not limited to, handwriting, typewriting, printing, photostating, photographing and every means of recording, including letters, words, pictures, sounds or symbols or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums or other documents.

74-102. PUBLIC RECORDS -- RIGHT TO EXAMINE. (1) Every person has a right to examine and take a copy of any public record of this state and there is a presumption that all public records in Idaho are open at all reasonable times for inspection except as otherwise expressly provided by statute.

(2) The right to copy public records shall include the right to make photographs or photographic or other copies while the records are in the possession of the custodian of the records using equipment provided by the pub-

lic agency or independent public body corporate and politic or using equipment designated by the custodian.

(3) Additionally, the custodian of any public record shall give the person, on demand, a certified copy of it if the record is of a nature permitting such copying or shall furnish reasonable opportunity to inspect or copy such record.

(4) A public agency or independent public body corporate and politic may require that a request for public records be submitted to it in a writing that provides the requester's name, mailing address, e-mail address and telephone number. A request for public records and delivery of the public records may be made by electronic mail.

(5) The custodian shall make no inquiry of any person who requests a public record, except:

(a) To verify the identity of the requester in accordance with section 74-113, Idaho Code; or

(b) To ensure that the requested record or information will not be used for purposes of a mailing or telephone list prohibited by section 74-120, Idaho Code, or as otherwise provided by law; or

(c) As required for purposes of protecting personal information from disclosure under chapter 2, title 49, Idaho Code, and federal law.

(6) The custodian shall not review, examine or scrutinize any copy, photograph or memoranda in the possession of any such person and shall extend to the person all reasonable comfort and facility for the full exercise of the right granted under this act.

(7) Nothing herein contained shall prevent the custodian from maintaining such vigilance as is required to prevent alteration of any public record while it is being examined.

(8) Examination of public records under the authority of this section must be conducted during regular office or working hours unless the custodian shall authorize examination of records in other than regular office or working hours. In this event, the persons designated to represent the custodian during such examination shall be entitled to reasonable compensation to be paid to them by the public agency or independent public body corporate and politic having custody of such records, out of funds provided in advance by the person examining such records, at other than regular office or working hours.

(9) The public agency or independent public body corporate and politic may provide the requester information to help the requester narrow the scope of the request or to help the requester make the request more specific when the response to the request is likely to be voluminous or require payment as provided in subsection (10) of this section.

(10) (a) Except for fees that are authorized or prescribed under other provisions of Idaho law, no fee shall be charged for the first two (2) hours of labor in responding to a request for public records, or for copying the first one hundred (100) pages of paper records that are requested.

(b) A public agency or independent public body corporate and politic or public official may establish fees to recover the actual labor and copying costs associated with locating and copying documents if:

(i) The request is for more than one hundred (100) pages of paper records; or

(ii) The request includes records from which nonpublic information must be deleted; or

(iii) The actual labor associated with responding to requests for public records in compliance with the provisions of this chapter exceeds two (2) person hours.

(c) A public agency or independent public body corporate and politic or public official may establish a copying fee schedule. The fee may not

exceed the actual cost to the agency of copying the record if another fee is not otherwise provided by law.

(d) For providing a duplicate of a computer tape, computer disc, microfilm or similar or analogous record system containing public record information, a public agency or independent public body corporate and politic or public official may charge a fee, uniform to all persons that does not exceed the sum of the following:

- (i) The agency's direct cost of copying the information in that form;
- (ii) The standard cost, if any, for selling the same information in the form of a publication;
- (iii) The agency's cost of conversion, or the cost of conversion charged by a third party, if the existing electronic record is converted to another electronic form.

(e) Fees shall not exceed reasonable labor costs necessarily incurred in responding to a public records request. Fees, if charged, shall reflect the personnel and quantity of time that are reasonably necessary to process a request. Fees for labor costs shall be charged at the per hour pay rate of the lowest paid administrative staff employee or public official of the public agency or independent public body corporate and politic who is necessary and qualified to process the request. If a request requires redactions to be made by an attorney who is employed by the public agency or independent public body corporate and politic, the rate charged shall be no more than the per hour rate of the lowest paid attorney within the public agency or independent public body corporate and politic who is necessary and qualified to process the public records request. If a request is submitted to a public agency or independent public body corporate and politic that does not have an attorney on staff, and requires redactions by an attorney, the rate shall be no more than the usual and customary rate of the attorney who is retained by the public agency or independent public body corporate and politic for that purpose.

(f) The public agency or independent public body corporate and politic shall not charge any cost or fee for copies or labor when the requester demonstrates that the requester's examination and/or copying of public records:

- (i) Is likely to contribute significantly to the public's understanding of the operations or activities of the government;
- (ii) Is not primarily in the individual interest of the requester including, but not limited to, the requester's interest in litigation in which the requester is or may become a party; and
- (iii) Will not occur if fees are charged because the requester has insufficient financial resources to pay such fees.

(g) Statements of fees by a public agency or independent public body corporate and politic shall be itemized to show the per page costs for copies, and hourly rates of employees and attorneys involved in responding to the request, and the actual time spent on the public records request. No lump sum costs shall be assigned to any public records request.

(11) A requester may not file multiple requests for public records solely to avoid payment of fees. When a public agency or independent public body corporate and politic reasonably believes that one (1) or more requesters is segregating a request into a series of requests to avoid payment of fees authorized pursuant to this section, the public agency or independent public body corporate and politic may aggregate such requests and charge the appropriate fees. The public agency or independent public body corporate and politic may consider the time period in which the requests have been made in its determination to aggregate the related requests. A

public agency or independent public body corporate and politic shall not aggregate multiple requests on unrelated subjects from one (1) requester.

(12) The custodian may require advance payment of fees authorized by this section. Any money received by the public agency or independent public body corporate and politic shall be credited to the account for which the expense being reimbursed was or will be charged, and such funds may be expended by the agency as part of its appropriation from that fund. Any portion of an advance payment in excess of the actual costs of labor and copying incurred by the agency in responding to the request shall be returned to the requester.

(13) A public agency or independent public body corporate and politic shall not prevent the examination or copying of a public record by contracting with a nongovernmental body to perform any of its duties or functions.

(14) Nothing contained herein shall prevent a public agency or independent public body corporate and politic from disclosing statistical information that is descriptive of an identifiable person or persons, unless prohibited by law.

(15) Nothing contained herein shall prevent a public agency or independent public body corporate and politic from providing a copy of a public record in electronic form if the record is available in electronic form and if the person specifically requests an electronic copy.

74-103. RESPONSE TO REQUEST FOR EXAMINATION OF PUBLIC RECORDS. (1) A public agency or independent public body corporate and politic shall either grant or deny a person's request to examine or copy public records within three (3) working days of the date of the receipt of the request for examination or copying. If it is determined by employees of the public agency or independent public body corporate and politic that a longer period of time is needed to locate or retrieve the public records, the public agency or independent public body corporate and politic shall so notify in writing the person requesting to examine or copy the records and shall provide the public records to the person no later than ten (10) working days following the person's request. Provided however, if it is determined the existing electronic record requested will first have to be converted to another electronic format by the agency or by a third party and that such conversion cannot be completed within ten (10) working days, the agency shall so notify in writing the person requesting to examine or copy the records. The agency shall provide the converted public record at a time mutually agreed upon between the agency and the requester, with due consideration given to any limitations that may exist due to the process of conversion or due to the use of a third party to make the conversion.

(2) If the public agency or independent public body corporate and politic fails to respond, the request shall be deemed to be denied within ten (10) working days following the request.

(3) If the public agency or independent public body corporate and politic denies the person's request for examination or copying the public records or denies in part and grants in part the person's request for examination and copying of the public records, the person legally responsible for administering the public agency or independent public body corporate and politic or that person's designee shall notify the person in writing of the denial or partial denial of the request for the public record.

(4) The notice of denial or partial denial shall state that the attorney for the public agency or independent public body corporate and politic has reviewed the request or shall state that the public agency or independent public body corporate and politic has had an opportunity to consult with an attorney regarding the request for examination or copying of a record and has chosen not to do so. The notice of denial or partial denial also shall indicate the statutory authority for the denial and indicate clearly the per-

son's right to appeal the denial or partial denial and the time periods for doing so.

74-104. RECORDS EXEMPT FROM DISCLOSURE -- EXEMPTIONS IN FEDERAL OR STATE LAW -- COURT FILES OF JUDICIAL PROCEEDINGS. The following records are exempt from disclosure:

(1) Any public record exempt from disclosure by federal or state law or federal regulations to the extent specifically provided for by such law or regulation.

(2) Records contained in court files of judicial proceedings, the disclosure of which is prohibited by or under rules adopted by the Idaho supreme court, but only to the extent that confidentiality is provided under such rules, and any drafts or other working memoranda related to judicial decision-making, 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.

74-105. RECORDS EXEMPT FROM DISCLOSURE -- LAW ENFORCEMENT RECORDS, INVESTIGATORY RECORDS OF AGENCIES, EVACUATION AND EMERGENCY RESPONSE PLANS, WORKER'S COMPENSATION. The following records are exempt from disclosure:

(1) Investigatory records of a law enforcement agency, as defined in section 74-101(7), Idaho Code, under the conditions set forth in section 74-124, Idaho Code.

(2) Juvenile records of a person maintained pursuant to chapter 5, title 20, Idaho Code, except that facts contained in such records shall be furnished upon request in a manner determined by the court to persons and governmental and private agencies and institutions conducting pertinent research studies or having a legitimate interest in the protection, welfare and treatment of the juvenile who is thirteen (13) years of age or younger. If the juvenile is petitioned or charged with an offense which would be a criminal offense if committed by an adult, the name, offense of which the juvenile was petitioned or charged and disposition of the court shall be subject to disclosure as provided in section 20-525, Idaho Code. Additionally, facts contained in any records of a juvenile maintained under chapter 5, title 20, Idaho Code, shall be furnished upon request to any school district where the juvenile is enrolled or is seeking enrollment.

(3) Records of the custody review board of the Idaho department of juvenile corrections, including records containing the names, addresses and written statements of victims and family members of juveniles, shall be exempt from public disclosure pursuant to section 20-533A, Idaho Code.

(4) (a) The following records of the department of correction:

(i) Records of which the public interest in confidentiality, public safety, security and habilitation clearly outweighs the public interest in disclosure as identified pursuant to the authority of the Idaho board of correction under section 20-212, Idaho Code;

(ii) Records that contain any identifying information, or any information that would lead to the identification of any victims or witnesses;

(iii) Records that reflect future transportation or movement of a prisoner;

(iv) Records gathered during the course of the presentence investigation;

(v) Records of a prisoner, as defined in section 74-101(10), Idaho Code, or probationer shall not be disclosed to any other prisoner or probationer.

(b) Records of buildings, facilities, infrastructures and systems held by or in the custody of any public agency only when the disclosure of

such information would jeopardize the safety of persons or the public safety. Such records may include emergency evacuation, escape or other emergency response plans, vulnerability assessments, operation and security manuals, plans, blueprints or security codes. For purposes of this section "system" shall mean electrical, heating, ventilation, air conditioning and telecommunication systems.

(c) Records of the commission of pardons and parole shall be exempt from public disclosure pursuant to section 20-213A, Idaho Code, and section 20-223, Idaho Code. Records exempt from disclosure shall also include those containing the names, addresses and written statements of victims.

(5) Voting records of the sexual offender classification board. The written record of the vote to classify an offender as a violent sexual predator by each board member in each case reviewed by that board member shall be exempt from disclosure to the public and shall be made available upon request only 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.

(6) Records of the sheriff or Idaho state police received or maintained pursuant to sections 18-3302, 18-3302H and 18-3302K, Idaho Code, relating to an applicant or licensee except that any law enforcement officer and law enforcement agency, whether inside or outside the state of Idaho, may access information maintained in the license record system as set forth in section 18-3302K(13), Idaho Code.

(7) Records of investigations prepared by the department of health and welfare pursuant to its statutory responsibilities dealing with the protection of children, the rehabilitation of youth, adoptions and the commitment of mentally ill persons. For reasons of health and safety, best interests of the child or public interest, the department of health and welfare may provide for the disclosure of records of investigations associated with actions pursuant to the provisions of chapter 16, title 16, Idaho Code, prepared by the department of health and welfare pursuant to its statutory responsibilities dealing with the protection of children except any such records regarding adoptions shall remain exempt from disclosure.

(8) Records including, but not limited to, investigative reports, resulting from investigations conducted into complaints of discrimination made to the Idaho human rights commission unless the public interest in allowing inspection and copying of such records outweighs the legitimate public or private interest in maintaining confidentiality of such records. A person may inspect and copy documents from an investigative file to which he or she is a named party if such documents are not otherwise prohibited from disclosure by federal law or regulation or state law. The confidentiality of this subsection will no longer apply to any record used in any judicial proceeding brought by a named party to the complaint or investigation, or by the Idaho human rights commission, relating to the complaint of discrimination.

(9) Records containing information obtained by the manager of the Idaho state insurance fund pursuant to chapter 9, title 72, Idaho Code, from or on behalf of employers or employees contained in underwriting and claims for benefits files.

(10) The worker's compensation records of the Idaho industrial commission provided that the industrial commission shall make such records available:

(a) To the parties in any worker's compensation claim and to the industrial special indemnity fund of the state of Idaho; or

(b) To employers and prospective employers subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations, who certify that the information is being requested with respect to a worker to whom the employer has extended an offer of employment and will be used in accordance with the provisions of the

Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations; or

(c) To employers and prospective employers not subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations, provided the employer presents a written authorization from the person to whom the records pertain; or

(d) To others who demonstrate that the public interest in allowing inspection and copying of such records outweighs the public or private interest in maintaining the confidentiality of such records, as determined by a civil court of competent jurisdiction; or

(e) Although a claimant's records maintained by the industrial commission, including medical and rehabilitation records, are otherwise exempt from public disclosure, the quoting or discussing of medical or rehabilitation records contained in the industrial commission's records during a hearing for compensation or in a written decision issued by the industrial commission shall be permitted; provided further, the true identification of the parties shall not be exempt from public disclosure in any written decision issued and released to the public by the industrial commission.

(11) Records of investigations compiled by the commission on aging involving vulnerable adults, as defined in section 18-1505, Idaho Code, alleged to be abused, neglected or exploited.

(12) Criminal history records and fingerprints, as defined by section 67-3001, Idaho Code, and compiled by the Idaho state police. Such records shall be released only in accordance with chapter 30, title 67, Idaho Code.

(13) Records furnished or obtained pursuant to section 41-1019, Idaho Code, regarding termination of an appointment, employment, contract or other insurance business relationship between an insurer and a producer.

(14) Records of a prisoner or former prisoner in the custody of any state or local correctional facility, when the request is made by another prisoner in the custody of any state or local correctional facility.

(15) Except as provided in section 72-1007, Idaho Code, records of the Idaho industrial commission relating to compensation for crime victims under chapter 10, title 72, Idaho Code.

(16) Records or information identifying a complainant maintained by the department of health and welfare pursuant to section 39-3556, Idaho Code, relating to certified family homes, unless the complainant consents in writing to the disclosure or the disclosure of the complainant's identity is required in any administrative or judicial proceeding.

74-106. 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 retirement 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 74-113, Idaho Code. Notwithstanding the provisions of section 74-113, 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 wel-

fare, 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.

(33) Personal information including, but not limited to, property values, personal and business addresses, phone numbers, dates of birth, social security and driver's license numbers or any other identifying numbers or information maintained by the administrator of the unclaimed property law set forth in chapter 5, title 14, Idaho Code. Nothing in this subsection shall prohibit the release of names, last known city of residence, property value ranges and general property information by the administrator for the purpose of reuniting unclaimed property with its owner.

74-107. RECORDS EXEMPT FROM DISCLOSURE -- TRADE SECRETS, PRODUCTION RECORDS, APPRAISALS, BIDS, PROPRIETARY INFORMATION. The following records are exempt from disclosure:

(1) Trade secrets including those contained in response to public agency or independent public body corporate and politic requests for proposal, requests for clarification, requests for information and similar requests. "Trade secrets" as used in this section means information, including a formula, pattern, compilation, program, computer program, device, method, technique, process, or unpublished or in progress research that:

(a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and

(b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(2) Production records, housing production, rental and financing records, sale or purchase records, catch records, mortgage portfolio loan documents, or similar business records of a private concern or enterprise required by law to be submitted to or inspected by a public agency or submitted to or otherwise obtained by an independent public body corporate and politic. Nothing in this subsection shall limit the use which can be made of such information for regulatory purposes or its admissibility in any enforcement proceeding.

(3) Records relating to the appraisal of real property, timber or mineral rights prior to its acquisition, sale or lease by a public agency or independent public body corporate and politic.

(4) Any estimate prepared by a public agency or independent public body corporate and politic that details the cost of a public project until such time as disclosed or bids are opened, or upon award of the contract for construction of the public project.

(5) Examination, operating or condition reports and all documents relating thereto, prepared by or supplied to any public agency or independent public body corporate and politic responsible for the regulation or supervision of financial institutions including, but not limited to, banks, savings and loan associations, regulated lenders, business and industrial development corporations, credit unions, and insurance companies, or for the regulation or supervision of the issuance of securities.

(6) Records gathered by a local agency or the Idaho department of commerce, as described in chapter 47, title 67, Idaho Code, for the specific purpose of assisting a person to locate, maintain, invest in, or expand business operations in the state of Idaho.

(7) Shipping and marketing records of commodity commissions used to evaluate marketing and advertising strategies and the names and addresses of growers and shippers maintained by commodity commissions.

(8) Financial statements and business information and reports submitted by a legal entity to a port district organized under title 70, Idaho Code, in connection with a business agreement, or with a development proposal or with a financing application for any industrial, manufacturing, or other business activity within a port district.

(9) Names and addresses of seed companies, seed crop growers, seed crop consignees, locations of seed crop fields, variety name and acreage by variety. Upon the request of the owner of the proprietary variety, this information shall be released to the owner. Provided however, that if a seed crop has been identified as diseased or has been otherwise identified by the Idaho department of agriculture, other state departments of agriculture, or the United States department of agriculture to represent a threat to that particular seed or commercial crop industry or to individual growers, information as to test results, location, acreage involved and disease symptoms of that particular seed crop, for that growing season, shall be available for public inspection and copying. This exemption shall not supersede the provisions of section 22-436, Idaho Code, nor shall this exemption apply to information regarding specific property locations subject to an open burning of crop residue pursuant to section 39-114, Idaho Code, names of persons responsible for the open burn, acreage and crop type to be burned, and time frames for burning.

(10) Information obtained from books, records and accounts required in chapter 47, title 22, Idaho Code, to be maintained by the Idaho oilseed com-

mission and pertaining to the individual production records of oilseed growers.

(11) Records of any risk retention or self-insurance program prepared in anticipation of litigation or for analysis of or settlement of potential or actual money damage claims against a public entity and its employees or against the industrial special indemnity fund except as otherwise discoverable under the Idaho or federal rules of civil procedure. These records shall include, but are not limited to, claims evaluations, investigatory records, computerized reports of losses, case reserves, internal documents and correspondence relating thereto. At the time any claim is concluded, only statistical data and actual amounts paid in settlement shall be deemed a public record unless otherwise ordered to be sealed by a court of competent jurisdiction. Provided however, nothing in this subsection is intended to limit the attorney client privilege or attorney work product privilege otherwise available to any public agency or independent public body corporate and politic.

(12) Records of laboratory test results provided by or retained by the Idaho food quality assurance laboratory. Nothing in this subsection shall limit the use which can be made, or availability of such information if used, for regulatory purposes or its admissibility in any enforcement proceeding.

(13) Reports required to be filed under chapter 13, title 62, Idaho Code, identifying electrical or natural or manufactured gas consumption data for an individual customer or account.

(14) Voluntarily prepared environmental audits, and voluntary disclosures of information submitted on or before December 31, 1997, to an environmental agency, which are claimed to be confidential business information.

(15) Computer programs developed or purchased by or for any public agency or independent public body corporate and politic for its own use. As used in this subsection, "computer program" means a series of instructions or statements which permit the functioning of a computer system in a manner designed to provide storage, retrieval and manipulation of data from the computer system, and any associated documentation and source material that explain how to operate the computer program. Computer program does not include:

- (a) The original data including, but not limited to, numbers, text, voice, graphics and images;
- (b) Analysis, compilation and other manipulated forms of the original data produced by use of the program; or
- (c) The mathematical or statistical formulas that would be used if the manipulated forms of the original data were to be produced manually.

(16) Active investigative records and trademark usage audits of the Idaho potato commission specifically relating to the enforcement of chapter 12, title 22, Idaho Code, until the commencement of formal proceedings as provided by rules of the commission; purchase and sales information submitted to the Idaho potato commission during a trademark usage audit, and investigation or enforcement proceedings. Inactive investigatory records shall be disclosed unless the disclosure would violate the standards set forth in subsections (1) (a) through (f) of section 74-124, Idaho Code. Nothing in this subsection shall limit the use which can be made, or availability of such information if used, for regulatory purposes or its admissibility in any enforcement proceeding.

(17) All records copied or obtained by the director of the department of agriculture or his designee as a result of an inspection pursuant to section 25-3806, Idaho Code, except:

- (a) Records otherwise deemed to be public records not exempt from disclosure pursuant to this chapter; and
- (b) Inspection reports, determinations of compliance or noncompliance and all other records created by the director or his designee pursuant to section 25-3806, Idaho Code.

(18) All data and information collected by the division of animal industries or the state brand board pursuant to the provisions of section 25-207B, Idaho Code, or rules promulgated thereunder.

(19) Records disclosed to a county official by the state tax commission pursuant to subsection (4) (c) of section 63-3029B, Idaho Code.

(20) Records, data, information and materials collected, developed, generated, ascertained or discovered during the course of academic research at public institutions of higher education if the disclosure of such could reasonably affect the conduct or outcome of the research, or the ability of the public institution of higher education to patent or copyright the research or protect intellectual property.

(21) Records, data, information and materials collected or utilized during the course of academic research at public institutions of higher education provided by any person or entity other than the public institution of higher education or a public agency.

(22) The exemptions from disclosure provided in subsections (20) and (21) of this section shall apply only until the academic research is publicly released, copyrighted or patented, or until the academic research is completed or terminated. At such time, the records, data, information, and materials shall be subject to public disclosure unless: (a) another exemption in this chapter applies; (b) such information was provided to the institution subject to a written agreement of confidentiality; or (c) public disclosure would pose a danger to persons or property.

(23) The exemptions from disclosure provided in subsections (20) and (21) of this section do not include basic information about a particular research project that is otherwise subject to public disclosure, such as the nature of the academic research, the name of the researcher, and the amount and source of the funding provided for the project.

(24) Records of a county assessor, the state tax commission, a county board of equalization or the state board of tax appeals containing the following information: (i) lists of personal property required to be filed pursuant to section 63-302, Idaho Code, and operating statements required to be filed pursuant to section 63-404, Idaho Code, and (ii) confidential commercial or financial information including trade secrets. Except with respect to lists of personal property required to be filed pursuant to section 63-302, Idaho Code, and the operator statements required to be filed pursuant to section 63-404, Idaho Code, it shall be the responsibility of the taxpayer to give notice of its claim to exemption by stamping or marking each page or the first page of each portion of documents so claimed. No records that are exempt pursuant to this subsection shall be disclosed without the consent of the taxpayer except as follows:

(a) To any officer, employee or authorized representative of the state or the United States, under a continuing claim of confidentiality, as necessary to carry out the provisions of state or federal law or when relevant to any proceeding thereunder.

(b) In the publication of statistics or reports as long as the statistics or reports do not reasonably lead to the identification of the specific taxpayer or information submitted by taxpayers exempt pursuant to this subsection.

(c) To the board of tax appeals or the district court as evidence or otherwise in connection with an appeal of the taxpayer's property tax assessment, but only if the board or the court, as applicable, has entered a protective order specifying that the taxpayer information may not be disclosed by any person conducting or participating in the action or proceeding, except as authorized by the board or the court in accordance with applicable law.

(d) Nothing in this subsection shall prevent disclosure of the following information:

- (i) Name and mailing address of the property owner;
- (ii) A parcel number;
- (iii) A legal description of real property;
- (iv) The square footage and acreage of real property;
- (v) The assessed value of taxable property;
- (vi) The tax district and the tax rate; and
- (vii) The total property tax assessed.

(25) Results of laboratory tests which have no known adverse impacts to human health conducted by the Idaho state department of agriculture animal health laboratory, related to diagnosis of animal diseases of individual animals or herds, on samples submitted by veterinarians or animal owners unless:

- (a) The laboratory test results indicate the presence of a state or federally reportable or regulated disease in animals;
- (b) The release of the test results is required by state or federal law; or
- (c) The test result is identified as representing a threat to animal or human health or to the livestock industry by the Idaho state department of agriculture or the United States department of agriculture. Nothing in this subsection shall limit the use which can be made, or availability of such information if used, for regulatory purposes or its admissibility in any enforcement proceeding, or the duty of any person to report contagious or infectious diseases as required by state or federal law.

(26) Results of laboratory tests conducted by the Idaho state department of agriculture seed laboratory on samples submitted by seed producers or seed companies. Nothing in this subsection shall limit the use which can be made, or availability of such information pursuant to the provisions of subsections (9) and (10) of section 22-418, Idaho Code.

(27) For policies that are owned by private persons, and not by a public agency of the state of Idaho, records of policies, endorsements, affidavits and any records that discuss policies, endorsements and affidavits that may be required to be filed with or by a surplus line association pursuant to chapter 12, title 41, Idaho Code.

(28) Individual financial statements of a postsecondary educational institution or a proprietary school submitted to the state board of education, its director or a representative thereof, for the purpose of registering the postsecondary educational institution or proprietary school pursuant to section 33-2402 or 33-2403, Idaho Code, or provided pursuant to an administrative rule of the board adopted pursuant to such sections.

74-108. EXEMPTIONS FROM DISCLOSURE -- ARCHAEOLOGICAL, ENDANGERED SPECIES, LIBRARIES, LICENSING EXAMS. The following records are exempt from disclosure:

(1) Records, maps or other records identifying the location of archaeological or geophysical sites or endangered species, if not already known to the general public.

(2) Archaeological and geologic records concerning exploratory drilling, logging, mining and other excavation, when such records are required to be filed by statute for the time provided by statute.

(3) The records of a library which, when examined alone, or when examined with other public records, would reveal the identity of the library patron checking out, requesting, or using an item from a library.

(4) The material of a library, museum or archive which has been contributed by a private person, to the extent of any limitation that is a condition of the contribution.

(5) Test questions, scoring keys, and other data used to administer a licensing examination, employment, academic or other examination or testing procedure before the examination is given if the examination is to be used

again. Records establishing procedures for and instructing persons administering, grading or evaluating an examination or testing procedure are included in this exemption, to the extent that disclosure would create a risk that the result might be affected.

74-109. RECORDS EXEMPT FROM DISCLOSURE -- DRAFT LEGISLATION AND SUPPORTING MATERIALS, TAX COMMISSION, UNCLAIMED PROPERTY, PETROLEUM CLEAN WATER TRUST FUND. The following records are exempt from disclosure:

(1) Records consisting of draft legislation and documents specifically related to such draft legislation or research requests submitted to the legislative services office by a member of the Idaho legislature for the purpose of placing such draft legislation into a form suitable for introduction as official proposed legislation of the legislature of the state of Idaho, unless the individual legislator having submitted or requested such records or research agrees to waive the provisions of confidentiality provided by this subsection.

(2) All papers, physical and electronic records and correspondence or other supporting materials comprising the work papers in the possession of the legislative services office or the director of legislative performance evaluations prior to release of the related final audit and all other records or materials in the possession of the legislative services office or the director of legislative performance evaluations that would otherwise be confidential or exempt from disclosure.

(3) Records consisting of draft congressional and legislative redistricting plans and documents specifically related to such draft redistricting plans or research requests submitted to the commission staff by a member of the commission for reapportionment for the purpose of placing such draft redistricting plan into form suitable for presentation to the full membership of the commission, unless the individual commission member having submitted or requested such plans or research agrees to waive the provisions of confidentiality provided by this subsection.

(4) Records that identify the method by which the Idaho state tax commission selects tax returns for audit review.

(5) Records that identify the method by which the administrator of the unclaimed property law set forth in chapter 5, title 14, Idaho Code, selects reports for audit review or conducts audit review of such reports and the identity of individuals or entities under audit.

(6) Underwriting and claims records of the Idaho petroleum clean water trust fund obtained pursuant to section 41-4905, 41-4909, 41-4911A, 41-4912 or 41-4912A, Idaho Code. Provided however, that this subsection shall not prevent the Idaho petroleum clean water trust fund's submittal to the Idaho department of environmental quality, or other regulatory agencies of information necessary to satisfy an insured's corrective action requirement under applicable federal or state standards in the event of a release into the environment from a petroleum storage tank; and provided further that nothing in this subsection shall prevent the Idaho petroleum clean water trust fund from providing auditing, reporting, or actuarial information as otherwise required of it pursuant to section 41-4919, 41-4925A, 41-4928, 41-4930, 41-4932, 41-4937 or 41-4938, Idaho Code.

74-110. EXEMPTION FROM DISCLOSURE -- RECORDS OF COURT PROCEEDINGS REGARDING JUDICIAL AUTHORIZATION OF ABORTION PROCEDURES FOR MINORS. In accordance with section 18-609A, Idaho Code, the following records are exempt from public disclosure: all records contained in court files of judicial proceedings arising under section 18-609A, Idaho Code, are exempt from disclosure.



74-111. EXEMPTION FROM DISCLOSURE -- RECORDS RELATED TO THE UNIFORM SECURITIES ACT. Except as otherwise determined by the director of the department of finance pursuant to section 30-14-607(c), Idaho Code, the following records are exempt from disclosure:

(1) A record obtained or created by the director of the department of finance or a representative of the director in connection with an audit or inspection under section 30-14-411(d), Idaho Code, or an investigation under section 30-14-602, Idaho Code;

(2) A part of a record filed in connection with a registration statement under section 30-14-301, Idaho Code, and sections 30-14-303 through 30-14-305, Idaho Code, or a record under section 30-14-411(d), Idaho Code, that contains trade secrets or confidential information if the person filing the registration statement or report has asserted a claim of confidentiality or privilege that is authorized by law;

(3) A record that is not required to be provided to the director of the department of finance or filed under chapter 14, title 30, Idaho Code, and is provided to the director only on the condition that the record will not be subject to public examination or disclosure;

(4) A nonpublic record received from a person specified in section 30-14-608(a), Idaho Code; and

(5) Any social security number, residential address unless used as a business address, and residential telephone number unless used as a business telephone number, contained in a record that is filed pursuant to chapter 14, title 30, Idaho Code.

74-112. EXEMPT AND NONEXEMPT PUBLIC RECORDS TO BE SEPARATED. If any public record contains material which is not exempt from disclosure as well as material which is exempt from disclosure, the public agency or independent public body corporate and politic shall, upon receipt of a request for disclosure, separate the exempt and nonexempt material and make the nonexempt material available for examination, provided that a denial of a request to copy nonexempt material in a public record shall not be based upon the fact that such nonexempt material is contained in the same public record as the exempt material.

74-113. ACCESS TO RECORDS ABOUT A PERSON BY A PERSON. (1) A person may inspect and copy the records of a public agency or independent public body corporate and politic pertaining to that person, even if the record is otherwise exempt from public disclosure.

(2) A person may request in writing an amendment of any record pertaining to that person. Within ten (10) days of the receipt of the request, the public agency or independent public body corporate and politic shall either:

(a) Make any correction of any portion of the record which the person establishes is not accurate, relevant, or complete; or

(b) Inform the person in writing of the refusal to amend in accordance with the request and the reasons for the refusal, and indicate clearly the person's right to appeal the refusal and the time period for doing so. The procedures for appealing a refusal to amend shall be the same as those set forth in sections 74-115 and 74-116, Idaho Code, and the court may award reasonable costs and attorney's fees to the prevailing party or parties, if it finds that the request for amendment or refusal to amend was frivolously pursued.

(3) The right to inspect and amend records pertaining to oneself does not include the right to review:

(a) Otherwise exempt investigatory records of a public agency or independent public body corporate and politic if the investigation is ongoing;

(b) Information that is compiled in reasonable anticipation of a civil action or proceeding which is not otherwise discoverable;

- (c) The information relates to adoption records;
- (d) Information which is otherwise exempt from disclosure by statute or court rule;
- (e) Records of a prisoner maintained by the state or local agency having custody of the prisoner or formerly having custody of the prisoner or by the commission of pardons and parole.

74-114. ACCESS TO AIR QUALITY AND HAZARDOUS WASTE RECORDS -- PROTECTION OF TRADE SECRETS. (1) To the extent required by the federal clean air act and the resource conservation and recovery act for state primacy over any delegated or authorized programs, even if the record is otherwise exempt from disclosure under this chapter, any person may inspect and copy:

- (a) Air pollution emission data;
- (b) The content of any title V operating permit;
- (c) The name and address of any applicant or permittee for a hazardous waste treatment, storage, or disposal facility permit pursuant to chapter 44, title 39, Idaho Code; and
- (d) Any other record required to be provided to or obtained by the department of environmental quality pursuant to the federal clean air act and the resource conservation and recovery act, and the implementing state statutes, federal regulations and state rules, unless the record is a trade secret.

(2) For purposes of this section, a record, or a portion of the record, is a "trade secret" if the information contained in the record is a trade secret within the meaning of the Idaho trade secrets act, sections 48-801, et seq., Idaho Code, including commercial or financial information which, if disclosed, could cause substantial competitive harm to the person from whom the record was obtained.

(3) Any record, or portion of a record, provided to or obtained by the department of environmental quality and identified by the person providing the record as a trade secret shall not be disclosed to the public and shall be kept confidential according to the procedures established in this section.

(4) Nothing in this section shall be construed as limiting the disclosure of a trade secret by the department of environmental quality:

- (a) To any officer, employee, or authorized representative of the state or the United States, under a continuing claim of confidentiality, as necessary to carry out the provisions of state or federal law, or when relevant to any proceeding thereunder;
- (b) As determined necessary by the director of the department of environmental quality (under a continuing confidentiality claim) to protect the public health and safety from imminent and substantial endangerment;
- (c) As required by state or federal law, including section 74-115(3), Idaho Code, under a continuing claim of confidentiality and subsection (1), of this section; or
- (d) With the consent of the person from whom the record is obtained.

(5) It shall be the responsibility of any person providing a record to the department of environmental quality to give notice of the existence of a trade secret on each page or other portion of information at the time of submittal and such person shall have the burden of demonstrating that the information is a trade secret.

(6) Notwithstanding the time frames set forth in section 74-103(1), Idaho Code, when a request is made to the department of environmental quality pursuant to the provisions of this chapter for the disclosure of information for which a trade secret claim has been made, and the information has not been demonstrated to be a trade secret to the satisfaction of the director of the department of environmental quality, within three (3) working days of receipt of the request for the disclosure of the information the department of environmental quality shall provide a written request for substantiation

to the person making the confidentiality claim. A response shall be submitted to the department of environmental quality by the person claiming the trade secret protection within ten (10) working days after receipt of the request for substantiation or the information subject to the claim shall be disclosed without further notice. Upon receipt of a timely response to the request for substantiation, the director of the department of environmental quality shall determine whether the information is a trade secret subject to protection.

(a) If it is determined that the information, or any portion of the information, is a trade secret, within three (3) working days after receipt of the response, the director of the department of environmental quality shall notify the person requesting the information that the request is denied pursuant to sections 74-103(3) and (4), Idaho Code.

(b) If it is determined that the information, or any portion of the information, is not a trade secret and is, therefore, subject to disclosure, within three (3) working days after receipt of the response, the director of the department of environmental quality shall inform the person making the confidentiality claim of the determination. The decision shall be a final agency action directly appealable, de novo, to the district court of the county where the records or some part thereof are located. An appeal contesting the decision of the director of the department of environmental quality to release information claimed to be a trade secret shall be filed within ten (10) working days from the date of receipt of the written notice of decision. The information claimed to be a trade secret shall not be disclosed until the period for appeal has expired with no appeal being taken, or a court order has been issued finding that the information is not a trade secret and all appeals of that order have been exhausted.

(7) In any appeal taken pursuant to this section, the court may award reasonable costs and attorney's fees to the prevailing party if it finds the claim of confidentiality or the decision of the director of the department of environmental quality to provide records was frivolously pursued.

(8) The department of environmental quality shall adopt rules which include:

(a) Appropriate measures to safeguard and protect against improper disclosure of trade secrets, including procedures to train all employees on the proper handling of trade secrets; and

(b) Any other provisions necessary to carry out this section.

(9) As it relates to the department of environmental quality, or to agents, contractors, or other representatives of the department, the immunity created in section 74-118, Idaho Code, shall apply only when disclosure of a trade secret is made consistent with this section.

74-115. PROCEEDINGS TO ENFORCE RIGHT TO EXAMINE OR TO RECEIVE A COPY OF RECORDS -- RETENTION OF DISPUTED RECORDS. (1) The sole remedy for a person aggrieved by the denial of a request for disclosure is to institute proceedings in the district court of the county where the records or some part thereof are located, to compel the public agency or independent public body corporate and politic to make the information available for public inspection in accordance with the provisions of this chapter. The petition contesting the public agency's or independent public body corporate and politic's decision shall be filed within one hundred eighty (180) calendar days from the date of mailing of the notice of denial or partial denial by the public agency or independent public body corporate and politic. In cases in which the records requested are claimed as exempt pursuant to section 74-107(1) or (24), Idaho Code, the petitioner shall be required to name as a party and serve the person or entity that filed or provided such documents to the agency, and such person or entity shall have standing to oppose the request for disclosure and to support the decision of the agency to deny

the request. The time for responsive pleadings and for hearings in such proceedings shall be set by the court at the earliest possible time, or in no event beyond twenty-eight (28) calendar days from the date of filing.

(2) The public agency or independent public body corporate and politic shall keep all documents or records in question until the end of the appeal period, until a decision has been rendered on the petition, or as otherwise statutorily provided, whichever is longer.

(3) Nothing contained in this chapter shall limit the availability of documents and records for discovery in the normal course of judicial or administrative adjudicatory proceedings, subject to the law and rules of evidence and of discovery governing such proceedings. Additionally, in any criminal appeal or post-conviction civil action, this chapter shall not make available the contents of prosecution case files where such material has previously been provided to the defendant nor shall this chapter be available to supplement, augment, substitute or supplant discovery procedures in any other federal, civil or administrative proceeding.

74-116. ORDER OF THE COURT -- COURT COSTS AND ATTORNEY FEES. (1) Whenever it appears that certain public records are being improperly withheld from a member of the public, the court shall order the public official charged with withholding the records to disclose the public record or show cause why he should not do so. The court shall decide the case after examining the pleadings filed by the parties and such oral arguments and additional evidence as the court may allow. The court may examine the record in camera in its discretion.

(2) If the court finds that the public official's decision to refuse disclosure is not justified, it shall order the public official to make the requested disclosure. If the court determines that the public official was justified in refusing to make the requested record available, he shall return the item to the public official without disclosing its content and shall enter an order supporting the decision refusing disclosure. In any such action, the court shall award reasonable costs and attorney fees to the prevailing party or parties, if it finds that the request or refusal to provide records was frivolously pursued.

74-117. ADDITIONAL PENALTY. If the court finds that a public official has deliberately and in bad faith improperly refused a legitimate request for inspection or copying, a civil penalty shall be assessed against the public official in an amount not to exceed one thousand dollars (\$1,000), which shall be paid into the general account.

74-118. IMMUNITY. No public agency or independent public body corporate and politic, public official, or custodian shall be liable, nor shall a cause of action exist, for any loss or damage based upon the release of a public record governed by the provisions of this chapter if the public agency or independent public body corporate and politic, public official or custodian acted in good faith in attempting to comply with the provisions of this chapter.

74-119. AGENCY GUIDELINES. By January 1, 2016, every state agency or independent public body corporate and politic shall adopt guidelines that identify the general subject matter of all public records kept or maintained by the state agency or independent public body corporate and politic, the custodian, and the physical location of such documents.

74-120. PROHIBITION ON DISTRIBUTION OR SALE OF MAILING OR TELEPHONE NUMBER LISTS -- PENALTY. (1) Except as provided in subsections (2), (3), (4), (5), (6), (7), (8) and (9) of this section, in order to protect the privacy of

those who deal with public agencies or an independent public body corporate and politic:

(a) No agency or independent public body corporate and politic may distribute or sell for use as a mailing list or a telephone number list any list of persons without first securing the permission of those on the list; and

(b) No list of persons prepared by the agency or independent public body corporate and politic may be used as a mailing list or a telephone number list except by the agency or independent public body corporate and politic or another agency without first securing the permission of those on the list.

(2) Except as may be otherwise provided in this chapter, this section does not prevent an individual from compiling a mailing list or a telephone number list by examination or copying of public records, original documents or applications which are otherwise open to public inspection.

(3) The provisions of this section do not apply to the lists of registered electors compiled pursuant to title 34, Idaho Code, or to lists of the names of employees governed by chapter 53, title 67, Idaho Code.

(4) The provisions of this section shall not apply to agencies which issue occupational or professional licenses.

(5) This section does not apply to the right of access either by Idaho law enforcement agencies or, by purchase or otherwise, of public records dealing with motor vehicle registration.

(6) This section does not apply to a corporate information list developed by the office of the secretary of state containing the name, address, registered agent, officers and directors of corporations authorized to do business in this state or to a business information list developed by the department of commerce containing the name, address, telephone number or other relevant information of Idaho businesses or individuals requesting information regarding the state of Idaho or to business lists developed by the department of agriculture, division of marketing and development, used to promote food and agricultural products produced in Idaho.

(7) This section does not apply to lists to be used for ordinary utility purposes which are requested by a person who supplies utility services in this state. Ordinary utility purposes, as used in this chapter only, do not include marketing or marketing research.

(8) This section does not apply to lists to be used to give notice required by any statute, ordinance, rule, law or by any governing agency.

(9) This section does not apply to student directory information provided by colleges, universities, secondary schools and school districts to military recruiters for military recruiting purposes pursuant to the requirements of federal laws.

(10) 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.

(11) If a court finds that a person or public official has deliberately and in bad faith violated the provisions of subsection (1) (a) or (1) (b) of this section, the person or public official shall be liable for a civil penalty assessed by the court in an amount not in excess of one thousand dollars (\$1,000) which shall be paid into the general account.

74-121. REPLEVIN -- PUBLIC RECORDS -- IMPROPER OR UNLAWFUL TRANSFER OR REMOVAL. (1) Public records of the state and/or territory of Idaho are the property of the citizens of the state in perpetuity and they may not be improperly or unlawfully transferred or removed from their proper custodian. For purposes of this section, the terms "public record" and "record," or plurals thereof, shall have the same meaning as "public record" as provided in section 74-101, Idaho Code.

(2) For the purpose of this section, where public records of a county, local district, or independent public body corporate and politic thereof are involved, all references to the state archivist also refer to any responsible public official or records custodian and all references to the attorney general also refer to county prosecutors.

(3) Whenever the state archivist or their designee has reasonable grounds to believe that records belonging to the state, county, local district, or independent public body corporate and politic thereof, are in the possession of a person or entity not authorized by law to possess those records, and such possession was acquired on or after July 1, 2011, he or she may issue a written notice demanding that person or entity to do either of the following within ten (10) calendar days of receiving the notice:

(a) Return the records to the office of origin or the Idaho state archives; or

(b) Respond in writing and declare why the records do not belong to the state or a local agency.

(4) The notice and demand shall identify the records claimed to belong to the state or local agency with reasonable specificity, and shall specify that the state archivist may undertake legal action to recover the records if the person or entity fails to respond in writing within the required time or does not adequately demonstrate that the records do not belong to the state or a local agency.

(5) If a person or entity that receives a written notice and demand from the state archivist pursuant to this chapter fails to deliver the described records, fails to respond to the notice and demand within the required time, or does not adequately demonstrate that the records do not belong to the state or a local agency, the state archivist may ask the attorney general to petition a court of competent jurisdiction for an order requiring the return of the records.

(6) The court may issue any order necessary to protect the records from destruction, alteration, transfer, conveyance or alienation by the person or entity in possession of the records, and may order that the records be surrendered into the custody of the state archivist pending the court's decision on the petition.

(7) After a hearing, and upon a finding that the specified records are in the possession of a person or entity not authorized by law to possess the records, the court shall order the records to be delivered to the state archivist or other official designated by the court.

(8) If the attorney general recovers a record under this section, the court may award attorney's fees and court costs.

(9) Notwithstanding any other provision of this section, any public record that is in the custody of an organization or institution shall not be subject to the provisions of this section provided:

(a) That professional standards recognized by the society of American archivists for the management and preservation of historical records are maintained; and

(b) Such records are accessible to the public in a manner consistent with this chapter.

(10) When a record is returned pursuant to subsection (3) (a) of this section, upon the request of the person, organization or institution that returned the record, the record custodian that receives the record shall issue to that person, organization or institution a copy or digital image of the record which shall be certified as a true copy of the record that was returned to the state or local agency, and dated on the same day the record was returned.

74-122. CONFIDENTIALITY LANGUAGE REQUIRED IN THIS CHAPTER. On and after January 1, 2016, any statute which is added to the Idaho Code and provides for the confidentiality or closure of any public record or class of public

records shall be placed in this chapter. Any statute which is added to the Idaho Code on and after January 1, 2016, and which provides for confidentiality or closure of a public record or class of public records and is located at a place other than this chapter shall be null, void and of no force and effect regarding the confidentiality or closure of the public record and such public record shall be open and available to the public for inspection as provided in this chapter.

74-123. IDAHO CODE IS PROPERTY OF THE STATE OF IDAHO. (1) The Idaho Code is the property of the state of Idaho, and the state of Idaho and the taxpayers shall be deemed to have a copyright on the Idaho Code. If a person reproduces or distributes the Idaho Code for the purpose of direct or indirect commercial advantage, the person shall owe to the Idaho code commission, as the agent of the state of Idaho, a royalty fee in addition to the fee charged for copying the Idaho Code. Any person who reproduces or distributes the Idaho Code in violation of the provisions of this section, shall be deemed to be an infringer of the state of Idaho's copyright. The Idaho code commission, through the office of the attorney general, is entitled to institute an action for any infringement of that particular right committed while the Idaho code commission or its designated agent has custody of the Idaho Code.

(2) A court having jurisdiction of a civil action arising under this section may grant such relief as it deems appropriate. At any time while an action under this section is pending, the court may order the impounding, on such terms as it deems reasonable, of all copies claimed to have been made or used in violation of the Idaho code commission's copyright pursuant to this section.

(3) An infringer of the state of Idaho's copyright pursuant to this section is liable for any profits the infringer has incurred by obtaining the Idaho Code for commercial purposes or is liable for statutory damages as provided in subsection (4) of this section.

(4) The Idaho code commission, as agent of the copyright owner, may elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits, an award of statutory damages for all infringements involved in the action, with respect to the Idaho Code for which any one (1) infringer is liable individually, or for which any two (2) or more infringers are liable jointly and severally, in a sum of not less than two hundred fifty dollars (\$250) or more than ten thousand dollars (\$10,000), as the court considers just.

(5) In any civil action under this section, the court may allow the recovery of full costs by or against any party and may also award reasonable attorney's fees to the prevailing party as part of the costs.

(6) The Idaho code commission is hereby authorized to license and charge fees for the use of the Idaho Code. The Idaho code commission may grant a license for the use of the Idaho Code to a public agency in the state and waive all or a portion of the fees. All fees recovered by the Idaho code commission shall be deposited in the general account.

74-124. EXEMPTIONS FROM DISCLOSURE -- CONFIDENTIALITY. (1) Notwithstanding any statute or rule of court to the contrary, nothing in this chapter nor chapter 10, title 59, Idaho Code, shall be construed to require disclosure of investigatory records compiled for law enforcement purposes by a law enforcement agency, but such exemption from disclosure applies only to the extent that the production of such records would:

- (a) Interfere with enforcement proceedings;
- (b) Deprive a person of a right to a fair trial or an impartial adjudication;
- (c) Constitute an unwarranted invasion of personal privacy;

(d) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement agency in the course of a criminal investigation, confidential information furnished only by the confidential source;

(e) Disclose investigative techniques and procedures; or

(f) Endanger the life or physical safety of law enforcement personnel.

(2) Notwithstanding subsection (1) of this section, any person involved in a motor vehicle collision which is investigated by a law enforcement agency, that person's authorized legal representative and the insurer shall have a right to a complete, unaltered copy of the impact report, or its successors, and the final report prepared by the agency.

(3) An inactive investigatory record shall be disclosed unless the disclosure would violate the provisions of subsection (1)(a) through (f) of this section. Investigatory record as used herein means information with respect to an identifiable person or group of persons compiled by a law enforcement agency in the course of conducting an investigation of a specific act or omission and shall not include the following information:

(a) The time, date, location, and nature and description of a reported crime, accident or incident;

(b) The name, sex, age, and address of a person arrested, except as otherwise provided by law;

(c) The time, date, and location of the incident and of the arrest;

(d) The crime charged;

(e) Documents given or required by law to be given to the person arrested;

(f) Informations and indictments except as otherwise provided by law; and

(g) Criminal history reports.

As used herein, the term "law enforcement agency" means the office of the attorney general, the office of the state controller, the Idaho state police, the office of any prosecuting attorney, sheriff or municipal police department.

(4) Whenever it is made to appear by verified petition to the district court of the county where the records or some part thereof are situated that certain investigative records are being improperly withheld from a member of the public, the court shall order the officer or person charged with withholding the records to disclose the investigative record or show cause why he should not do so. The court shall decide the case after examining the record in camera, papers filed by the parties, and such oral argument and additional evidence as the court may allow.

If the court finds that the public official's decision to refuse disclosure is not justified, he shall order the public official to make the record public. If the judge determines that the public official was justified in refusing to make the record public, he shall return the item to the public official without disclosing its content with an order supporting the decision refusing disclosure. Any person who fails to obey the order of the court shall be cited to show cause why he is not in contempt of court. The court may, in its discretion, award costs and fees to the prevailing party.

74-125. EVIDENCE FROM PRELIMINARY HEARING -- ADMISSION -- REQUIREMENTS. Prior to admitting into evidence recorded testimony from a preliminary hearing, the court must find that the testimony offered is:

1. Offered as evidence of a material fact and that the testimony is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and

2. That the witness is, after diligent and good faith attempts to locate, unavailable for the hearing; and



3. That at the preliminary hearing, the party against whom the admission of the testimony is sought had an adequate opportunity to prepare and cross-examine the proffered testimony.

74-126. 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 remaining portions of this act.

## CHAPTER 2 OPEN MEETINGS LAW

74-201. FORMATION OF PUBLIC POLICY AT OPEN MEETINGS. The people of the state of Idaho in creating the instruments of government that serve them, do not yield their sovereignty to the agencies so created. Therefore, the legislature finds and declares that it is the policy of this state that the formation of public policy is public business and shall not be conducted in secret.

74-202. OPEN PUBLIC MEETINGS -- DEFINITIONS. As used in this chapter:

(1) "Decision" means any determination, action, vote or final disposition upon a motion, proposal, resolution, order, ordinance or measure on which a vote of a governing body is required, at any meeting at which a quorum is present, but shall not include those ministerial or administrative actions necessary to carry out a decision previously adopted in a meeting held in compliance with this chapter.

(2) "Deliberation" means the receipt or exchange of information or opinion relating to a decision, but shall not include informal or impromptu discussions of a general nature which do not specifically relate to a matter then pending before the public agency for decision.

(3) "Executive session" means any meeting or part of a meeting of a governing body which is closed to any persons for deliberation on certain matters.

(4) "Public agency" means:

(a) any state board, commission, department, authority, educational institution or other state agency which is created by or pursuant to statute, other than courts and their agencies and divisions, and the judicial council, and the district magistrates commission;

(b) any regional board, commission, department or authority created by or pursuant to statute;

(c) any county, city, school district, special district, or other municipal corporation or political subdivision of the state of Idaho;

(d) any subagency of a public agency which is created by or pursuant to statute, ordinance, or other legislative act.

(5) "Governing body" means the members of any public agency which consists of two (2) or more members, with the authority to make decisions for or recommendations to a public agency regarding any matter.

(6) "Meeting" means the convening of a governing body of a public agency to make a decision or to deliberate toward a decision on any matter.

(a) "regular meeting" means the convening of a governing body of a public agency on the date fixed by law or rule, to conduct the business of the agency.

(b) "special meeting" is a convening of the governing body of a public agency pursuant to a special call for the conduct of business as specified in the call.

74-203. GOVERNING BODIES -- REQUIREMENT FOR OPEN PUBLIC MEETINGS. (1) Except as provided below, all meetings of a governing body of a public agency

shall be open to the public and all persons shall be permitted to attend any meeting except as otherwise provided by this act. No decision at a meeting of a governing body of a public agency shall be made by secret ballot.

(2) Deliberations of the board of tax appeals created in chapter 38, title 63, Idaho Code, the public utilities commission and the industrial commission in a fully submitted adjudicatory proceeding in which hearings, if any are required, have been completed, and in which the legal rights, duties or privileges of a party are to be determined are not required by this act to take place in a meeting open to the public. Such deliberations may, however, be made and/or conducted in a public meeting at the discretion of the agency.

(3) Meetings of the Idaho life and health insurance guaranty association established under chapter 43, title 41, Idaho Code, the Idaho insurance guaranty association established under chapter 36, title 41, Idaho Code, and the surplus line association approved by the director of the Idaho department of insurance as authorized under chapter 12, title 41, Idaho Code, are not required by this act to take place in a meeting open to the public.

(4) A governing body shall not hold a meeting at any place where discrimination on the basis of race, creed, color, sex, age or national origin is practiced.

(5) All meetings may be conducted using telecommunications devices which enable all members of a governing body participating in the meeting to communicate with each other. Such devices may include, but are not limited to, telephone or video conferencing devices and similar communications equipment. Participation by a member of the governing body through telecommunications devices shall constitute presence in person by such member at the meeting; provided however, that at least one (1) member of the governing body, or the director of the public agency, or the chief administrative officer of the public agency shall be physically present at the location designated in the meeting notice, as required under section 74-204, Idaho Code, to ensure that the public may attend such meeting in person. The communications among members of a governing body must be audible to the public attending the meeting in person and the members of the governing body.

74-204. NOTICE OF MEETINGS -- AGENDAS. (1) Regular meetings. No less than a five (5) calendar day meeting notice and a forty-eight (48) hour agenda notice shall be given unless otherwise provided by statute. Provided however, that any public agency that holds meetings at regular intervals of at least once per calendar month scheduled in advance over the course of the year may satisfy this meeting notice by giving meeting notices at least once each year of its regular meeting schedule. The notice requirement for meetings and agendas shall be satisfied by posting such notices and agendas in a prominent place at the principal office of the public agency, or if no such office exists, at the building where the meeting is to be held.

(2) Special meetings. No special meeting shall be held without at least a twenty-four (24) hour meeting and agenda notice, unless an emergency exists. An emergency is a situation involving injury or damage to persons or property, or immediate financial loss, or the likelihood of such injury, damage or loss, when the notice requirements of this section would make such notice impracticable, or increase the likelihood or severity of such injury, damage or loss, and the reason for the emergency is stated at the outset of the meeting. The notice required under this section shall include at a minimum the meeting date, time, place and name of the public agency calling for the meeting. The secretary or other designee of each public agency shall maintain a list of the news media requesting notification of meetings and shall make a good faith effort to provide advance notification to them of the time and place of each meeting.

(3) Executive sessions. If an executive session only will be held, a twenty-four (24) hour meeting and agenda notice shall be given according to the notice provisions stated in subsection (2) of this section and shall

state the reason and the specific provision of law authorizing the executive session.

(4) An agenda shall be required for each meeting. The agenda shall be posted in the same manner as the notice of the meeting. An agenda may be amended, provided that a good faith effort is made to include, in the original agenda notice, all items known to be probable items of discussion.

(a) If an amendment to an agenda is made after an agenda has been posted but forty-eight (48) hours or more prior to the start of a regular meeting, or twenty-four (24) hours or more prior to the start of a special meeting, then the agenda is amended upon the posting of the amended agenda.

(b) If an amendment to an agenda is proposed after an agenda has been posted and less than forty-eight (48) hours prior to a regular meeting or less than twenty-four (24) hours prior to a special meeting but prior to the start of the meeting, the proposed amended agenda shall be posted but shall not become effective until a motion is made at the meeting and the governing body votes to amend the agenda.

(c) An agenda may be amended after the start of a meeting upon a motion that states the reason for the amendment and states the good faith reason the agenda item was not included in the original agenda posting.

74-205. WRITTEN MINUTES OF MEETINGS. (1) The governing body of a public agency shall provide for the taking of written minutes of all its meetings. Neither a full transcript nor a recording of the meeting is required, except as otherwise provided by law. All minutes shall be available to the public within a reasonable time after the meeting, and shall include at least the following information:

(a) All members of the governing body present;

(b) All motions, resolutions, orders, or ordinances proposed and their disposition;

(c) The results of all votes, and upon the request of a member, the vote of each member, by name.

(2) Minutes pertaining to executive sessions. Minutes pertaining to an executive session shall include a reference to the specific statutory subsection authorizing the executive session and shall also provide sufficient detail to identify the purpose and topic of the executive session but shall not contain information sufficient to compromise the purpose of going into executive session.

74-206. EXECUTIVE SESSIONS -- WHEN AUTHORIZED. (1) An executive session at which members of the public are excluded may be held, but only for the purposes and only in the manner set forth in this section. The motion to go into executive session shall identify the specific subsections of this section that authorize the executive session. There shall be a roll call vote on the motion and the vote shall be recorded in the minutes. An executive session shall be authorized by a two-thirds (2/3) vote of the governing body. An executive session may be held:

(a) To consider hiring a public officer, employee, staff member or individual agent, wherein the respective qualities of individuals are to be evaluated in order to fill a particular vacancy or need. This paragraph does not apply to filling a vacancy in an elective office or deliberations about staffing needs in general;

(b) To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student;

(c) To conduct deliberations concerning labor negotiations or to acquire an interest in real property which is not owned by a public agency;

(d) To consider records that are exempt from disclosure as provided in chapter 1, title 74, Idaho Code;

(e) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations;

(f) To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. The mere presence of legal counsel at an executive session does not satisfy this requirement;

(g) By the commission of pardons and parole, as provided by law;

(h) By the custody review board of the Idaho department of juvenile corrections, as provided by law; or

(i) To engage in communications with a representative of the public agency's risk manager or insurance provider to discuss the adjustment of a pending claim or prevention of a claim imminently likely to be filed. The mere presence of a representative of the public agency's risk manager or insurance provider at an executive session does not satisfy this requirement.

(2) Labor negotiations may be conducted in executive session if either side requests closed meetings. Notwithstanding the provisions of section 74-204, Idaho Code, subsequent sessions of the negotiations may continue without further public notice.

(3) The exceptions to the general policy in favor of open meetings stated in this section shall be narrowly construed. It shall be a violation of this act to change the subject within the executive session to one not identified within the motion to enter the executive session or to any topic for which an executive session is not provided.

(4) No executive session may be held for the purpose of taking any final action or making any final decision.

74-207. OPEN LEGISLATIVE MEETINGS REQUIRED. All meetings of any standing, special or select committee of either house of the legislature of the state of Idaho shall be open to the public at all times, except in extraordinary circumstances as provided specifically in the rules of procedure in either house, and any person may attend any meeting of a standing, special or select committee, but may participate in the committee only with the approval of the committee itself.

74-208. VIOLATIONS. (1) If an action, or any deliberation or decision-making that leads to an action, occurs at any meeting which fails to comply with the provisions of this chapter, such action shall be null and void.

(2) Any member of the governing body governed by the provisions of this chapter, who conducts or participates in a meeting which violates the provisions of this act shall be subject to a civil penalty not to exceed fifty dollars (\$50.00).

(3) Any member of a governing body who knowingly violates the provisions of this chapter shall be subject to a civil penalty not to exceed five hundred dollars (\$500).

(4) Any member of a governing body who violates any provision of this act and who has previously admitted to committing or has been previously determined to have committed a violation of this act within the twelve (12) months preceding this subsequent violation shall be subject to a civil penalty not to exceed five hundred dollars (\$500).

(5) The attorney general shall have the duty to enforce this chapter in relation to public agencies of state government, and the prosecuting attorneys of the various counties shall have the duty to enforce this act in relation to local public agencies within their respective jurisdictions. In the event that there is reason to believe that a violation of the provisions of this act has been committed by members of a board of county commissioners or, for any other reason a county prosecuting attorney is deemed disquali-

fied from proceeding to enforce this act, the prosecuting attorney or board of county commissioners shall seek to have a special prosecutor appointed for that purpose as provided in section 31-2603, Idaho Code.

(6) Any person affected by a violation of the provisions of this chapter may commence a civil action in the magistrate division of the district court of the county in which the public agency ordinarily meets, for the purpose of requiring compliance with provisions of this act. No private action brought pursuant to this subsection shall result in the assessment of a civil penalty against any member of a public agency and there shall be no private right of action for damages arising out of any violation of the provisions of this chapter. Any suit brought for the purpose of having an action declared or determined to be null and void pursuant to subsection (1) of this section shall be commenced within thirty (30) days of the time of the decision or action that results, in whole or in part, from a meeting that failed to comply with the provisions of this act. Any other suit brought under the provisions of this section shall be commenced within one hundred eighty (180) days of the time of the violation or alleged violation of the provisions of this act.

(7) (a) A violation may be cured by a public agency upon:

(i) The agency's self-recognition of a violation; or

(ii) Receipt by the secretary or clerk of the public agency of written notice of an alleged violation. A complaint filed and served upon the public agency may be substituted for other forms of written notice. Upon notice of an alleged open meeting violation, the governing body shall have fourteen (14) days to respond publicly and either acknowledge the open meeting violation and state an intent to cure the violation or state that the public agency has determined that no violation has occurred and that no cure is necessary. Failure to respond shall be treated as a denial of any violation for purposes of proceeding with any enforcement action.

(b) Following the public agency's acknowledgment of a violation pursuant to paragraph (a) (i) or (a) (ii) of this subsection, the public agency shall have fourteen (14) days to cure the violation by declaring that all actions taken at or resulting from the meeting in violation of this act void.

(c) All enforcement actions shall be stayed during the response and cure period but may recommence at the discretion of the complainant after the cure period has expired.

(d) A cure as provided in this section shall act as a bar to the imposition of the civil penalty provided in subsection (2) of this section. A cure of a violation as provided in subsection (7) (a) (i) of this section shall act as a bar to the imposition of any civil penalty provided in subsection (4) of this section.

### CHAPTER 3 [RESERVED]

### CHAPTER 4 ETHICS IN GOVERNMENT

74-401. SHORT TITLE. This chapter shall be known and may be cited as the "Ethics in Government Act of 2015."

74-402. POLICY AND PURPOSE. It is hereby declared that the position of a public official at all levels of government is a public trust and it is in the public interest to:

(1) Protect the integrity of government throughout the state of Idaho while at the same time facilitating recruitment and retention of personnel needed within government;

(2) Assure independence, impartiality and honesty of public officials in governmental functions;

(3) Inform citizens of the existence of personal interests which may present a conflict of interest between an official's public trust and private concerns;

(4) Prevent public office from being used for personal gain contrary to the public interest;

(5) Prevent special interests from unduly influencing governmental action; and

(6) Assure that governmental functions and policies reflect, to the maximum extent possible, the public interest.

74-403. DEFINITIONS. For purposes of this chapter:

(1) "Official action" means any decision on, or proposal, consideration, enactment, defeat, or making of any rule, regulation, rate-making proceeding or policy action or nonaction by a governmental body or any other policy matter which is within the official jurisdiction of the governmental body.

(2) "Business" means any undertaking operated for economic gain, including, but not limited to, a corporation, partnership, trust, proprietorship, firm, association or joint venture.

(3) "Business with which a public official is associated" means any business of which the public official or member of his household is a director, officer, owner, partner, employee or holder of stock over five thousand dollars (\$5,000) or more at fair market value.

(4) "Conflict of interest" means any official action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit of the person or a member of the person's household, or a business with which the person or a member of the person's household is associated, unless the pecuniary benefit arises out of the following:

(a) An interest or membership in a particular business, industry, occupation or class required by law as a prerequisite to the holding by the person of the office or position;

(b) Any action in the person's official capacity which would affect to the same degree a class consisting of an industry or occupation group in which the person, or a member of the person's household or business with which the person is associated, is a member or is engaged;

(c) Any interest which the person has by virtue of his profession, trade or occupation where his interest would be affected to the same degree as that of a substantial group or class of others similarly engaged in the profession, trade or occupation;

(d) Any action by a public official upon any revenue measure, any appropriation measure or any measure imposing a tax, when similarly situated members of the general public are affected by the outcome of the action in a substantially similar manner and degree.

(5) "Economic gain" means increase in pecuniary value from sources other than lawful compensation as a public official.

(6) "Governmental entity" means:

(a) The state of Idaho and all agencies, commissions and other governmental bodies of the state; and

(b) Counties and municipalities of the state of Idaho, all other political subdivisions including, but not limited to, highway districts, planning and zoning commissions or governmental bodies not specifically mentioned in this chapter.

(7) "Members of a household" means the spouse and dependent children of the public official and/or persons whom the public official is legally obligated to support.

(8) "Person" means an individual, proprietorship, partnership, association, trust, estate, business trust, group or corporation, whether operated for profit or not, and any other legal entity, or agent or servant thereof, or a governmental entity.

(9) "Public office" means any position in which the normal and usual duties are conducted on behalf of a governmental entity.

(10) "Public official" means any person holding public office in the following capacity:

(a) As an elected public official meaning any person holding public office of a governmental entity by virtue of an elected process, including persons appointed to a vacant elected office of a governmental entity, excluding members of the judiciary; or

(b) As an elected legislative public official meaning any person holding public office as a legislator; or

(c) As an appointed public official meaning any person holding public office of a governmental entity by virtue of formal appointment as required by law; or

(d) As an employed public official meaning any person holding public office of a governmental entity by virtue of employment, or a person employed by a governmental entity on a consultive basis.

74-404. REQUIRED ACTION IN CONFLICTS. A public official shall not take any official action or make a formal decision or formal recommendation concerning any matter where he has a conflict of interest and has failed to disclose such conflict as provided in this section. Disclosure of a conflict does not affect an elected public official's authority to be counted for purposes of determining a quorum and to debate and to vote on the matter, unless the public official requests to be excused from debate and voting at his or her discretion. In order to determine whether a conflict of interest exists relative to any matter within the scope of the official functions of a public official, a public official may seek legal advice from the attorney representing that governmental entity or from the attorney general or from independent counsel. If the legal advice is that no real or potential conflict of interest exists, the public official may proceed and shall not be subject to the prohibitions of this chapter. If the legal advice is that a real or potential conflict may exist, the public official:

(1) If he is an elected legislative public official, he shall disclose the nature of the potential conflict of interest and/or be subject to the rules of the body of which he/she is a member and shall take all action required under such rules prior to acting on the matter. If a member requests to be excused from voting on an issue which involves a conflict or a potential conflict, and the body of which he is a member does not excuse him, such failure to excuse shall exempt that member from any civil or criminal liability related to that particular issue.

(2) If he is an elected state public official, he shall prepare a written statement describing the matter required to be acted upon and the nature of the potential conflict, and shall file such statement with the secretary of state prior to acting on the matter. A public official may seek legal advice from the attorney representing that agency or from the attorney general or from independent counsel. The elected public official may then act on the advice of the agency's attorney, the attorney general or independent counsel.

(3) If he is an appointed or employed state public official, he shall prepare a written statement describing the matter to be acted upon and the nature of the potential conflict, and shall deliver the statement to his appointing authority. The appointing authority may obtain an advisory opinion from the attorney general or from the attorney representing that agency. The public official may then act on the advice of the attorney general, the agency's attorney or independent counsel.

(4) If he is an elected public official of a county or municipality, he shall disclose the nature of a potential conflict of interest prior to acting on a matter and shall be subject to the rules of the body of which he/she is a member and take all action required by the rules prior to acting on the matter. If a member requests to be excused from voting on an issue which involves a conflict or a potential conflict, and the body of which he is a member does not excuse him, such failure to excuse shall exempt that member from any civil or criminal liability related to that particular issue. The public official may obtain an advisory opinion from the attorney general or the attorney for the county or municipality or from independent counsel. The public official may then act on the advice of the attorney general or attorney for the county or municipality or his independent counsel.

(5) If he is an appointed or employed public official of a county or municipality, he shall prepare a written statement describing the matter required to be acted upon and the nature of the potential conflict, and shall deliver the statement to his appointing authority. The appointing authority may obtain an advisory opinion from the attorney for the appointing authority, or, if none, the attorney general. The public official may then act on the advice of the attorney general or attorney for the appointing authority or independent counsel.

(6) Nothing contained herein shall preclude the executive branch of state government or a political subdivision from establishing an ethics board or commission to perform the duties and responsibilities provided for in this chapter. Any ethics board or commission so established shall have specifically stated powers and duties including the power to:

- (a) Issue advisory opinions upon the request of a public official within its jurisdiction;
- (b) Investigate possible unethical conduct of public officials within its jurisdiction and conduct hearings, issue findings, and make recommendations for disciplinary action to a public official's appointing authority;
- (c) Accept complaints of unethical conduct from the public and take appropriate action.

74-405. NONCOMPENSATED PUBLIC OFFICIAL -- EXCEPTION. When a person is a public official by reason of his appointment or election to a governing board of a governmental entity for which the person receives no salary or fee as compensation for his service on said board, he shall not be prohibited from having an interest in any contract made or entered into by the board of which he is a member, if he strictly observes the procedure set out in section 18-1361A, Idaho Code.

74-406. CIVIL PENALTY. (1) Any public official who intentionally fails to disclose a conflict of interest as provided for in section 74-404, Idaho Code, shall be guilty of a civil offense, the penalty for which may be a fine not to exceed five hundred dollars (\$500), provided that the provisions of this subsection shall not apply to any public official where the governmental entity on which said official serves has put into operation an ethics commission or board described in section 74-404 (6), Idaho Code.

(2) The penalty prescribed in subsection (1) of this section does not limit the power of either house of the legislature to discipline its own members, nor limit the power of governmental entities, including occupational or professional licensing bodies, to discipline their members or personnel. A violation of the provisions of this chapter shall not preclude prosecution and conviction for any criminal violation that may have been committed.



CHAPTER 5  
PROHIBITIONS AGAINST CONTRACTS WITH OFFICERS

74-501. OFFICERS NOT TO BE INTERESTED IN CONTRACTS. Members of the legislature, state, county, city, district and precinct officers, must not be interested in any contract made by them in their official capacity, or by any body or board of which they are members.

74-502. REMOTE INTERESTS. (1) A public officer shall not be deemed to be interested in a contract, within the meaning of section 74-501, Idaho Code, if he has only a remote interest in the contract and if the fact and extent of such interest is disclosed to the body of which he is an officer and noted in the official minutes or similar records prior to the formation of the contract, and thereafter the governing body authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer having the remote interest. As used in this section, "remote interest" means:

- (a) That of a nonsalaried officer of a nonprofit corporation; or
- (b) That of an employee or agent of a contracting party where the compensation of such employee or agent consists entirely of fixed wages or salary; or
- (c) That of a landlord or tenant of a contracting party; or
- (d) That of a holder of less than one percent (1%) of the shares of a corporation or cooperative which is a contracting party.

(2) Although a public official's interest in a contract may be only remote, a public official shall not influence or attempt to influence any other officer of the board of which he is an officer to enter into the contract. Violation of the provisions of this subsection shall be a misdemeanor as provided in section 74-509, Idaho Code. Any contract created or entered into in violation of the provisions of this subsection shall be void.

74-503. OFFICERS NOT TO BE INTERESTED IN SALES. State, county, district, precinct and city officers must not be purchasers at any sale nor vendors at any purchase made by them in their official capacity.

74-504. PROHIBITED CONTRACTS VOIDABLE. Every contract made in violation of any of the provisions of this chapter may be avoided at the instance of any party except the officer interested therein.

74-505. DEALING IN WARRANTS PROHIBITED. The state treasurer and state controller, the several county, city, district or precinct officers of this state, their deputies and clerks, are prohibited from purchasing or selling, or in any manner receiving to their own use or benefit, or to the use or benefit of any person or persons, whatever, any state, county, or city warrants, scrip, orders, demands, claims, or other evidences of indebtedness against the state, or any county or city thereof, except evidences of indebtedness issued to or held by them for services rendered as such officer, deputy or clerk, and evidences of the funded indebtedness of such state, county, city, district or corporation.

74-506. AFFIDAVIT OF NONVIOLATION A PREREQUISITE TO ALLOWANCE OF ACCOUNTS. Every officer whose duty it is to audit and allow the accounts of other state, county, district, city or precinct officers, must, before allowing such accounts, require each of such officers to make and file with him an affidavit that he has not violated any of the provisions of this chapter.

74-507. PROVISIONS OF CHAPTER VIOLATED -- DISBURSING OFFICER NOT TO PAY WARRANTS. Officers charged with the disbursement of public moneys must not pay any warrant or other evidence of indebtedness against the state, county, city or district, when the same has been purchased, sold, received or transferred contrary to any of the provisions of this chapter.

74-508. SUSPENSION OF SETTLEMENT OR PAYMENT -- PROSECUTION OF OFFENDERS. Every officer charged with the disbursement of public moneys, who is informed by affidavit that any officer whose account is to be settled, audited, or paid by him, has violated any of the provisions of this chapter, must suspend such settlement or payment, and cause such officer to be prosecuted for such violation.

74-509. VIOLATION. A violation of the provisions of this chapter, unless otherwise provided, is a misdemeanor and shall be punished by a fine not exceeding one thousand dollars (\$1,000), or incarceration in the county jail for a period not exceeding one (1) year, or by both such fine and incarceration.

74-510. NONCOMPENSATED PUBLIC OFFICIAL -- EXCEPTION. When a person is a public official by reason of his appointment or election to a governing board of a governmental entity for which the person receives no salary or fee as compensation for his service on said board, he shall not be prohibited from having an interest in any contract made or entered into by the board of which he is a member, if he strictly observes the procedure set out in section 18-1361A, Idaho Code.

74-511. VIOLATION RELATING TO PUBLIC CONTRACTS. Officers shall not commit any act prohibited by section 67-5726, Idaho Code, violations of which are subject to penalties as provided in section 67-5734, Idaho Code, and which prohibitions and penalties shall be deemed to extend to all public officers governed by the provisions of this chapter.

SECTION 6. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

Approved March 26, 2015

CHAPTER 141  
(H.B. No. 91)

AN ACT

RELATING TO THE PUBLIC RECORDS ACT; AMENDING SECTIONS 1-2103, 6-1001, 6-1008, 6-1010, 6-2301, 6-2303, 7-1408, 7-1416, 9-806, 9-808, 15-5-602, 16-1513, 16-1629, 18-609A, 18-1359, 18-3302, 18-3302H, 18-3302K, 19-1112, 19-5514, 19-5801, 19-5803, 20-226, 20-511, 20-516, 20-525, 20-804, 22-606, 22-609, 22-1215, 22-2206, 22-2209, 22-2718, 22-3309, 22-4909A, 22-5119, 23-515, 25-207B, 25-2714, 25-3806, 25-3807, 26-1111, 26-1112, 26-2610, 26-2916, 26-31-103, 26-31-315, 28-46-106, 28-46-304, 28-46-409, 28-51-104, 30-14-607, 31-874, 31-1415, 31-3418, 31-3551, 31-4814, 31-4904, 31-5104, 33-357, 33-510, 33-514, 33-515, 33-1211, 33-1273A, 33-2505A, 33-2606, 33-2719, 33-3407 AND 33-5204, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTION 33-5204, IDAHO CODE, AS ENACTED BY SECTION 9, CHAPTER 252,

LAWS OF 2014, TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTIONS 33-5204A, 33-5504A, 34-416, 36-105, 36-402, 36-2114, 37-401, 37-606, 37-2743, 38-712, 39-111, 39-270, 39-606, 39-610, 39-1210, 39-1310, 39-1393, 39-2812, 39-3556, 39-3913, 39-4411, 39-4412, 39-5211, 39-5307, 39-5403, 39-5818, 39-7408B, 39-7908, 39-7914, 39-8206, 40-1306C, 40-1309, 40-2004, 41-227, 41-249, 41-296, 41-335, 41-1019, 41-1440, 41-2710, 41-3311, 41-4011, 41-4111, 41-5103, 41-5408, 41-5817, 42-4010, 44-1606, 47-319, 47-1314, 47-1506, 47-1515, 48-612, 48-801, 48-1509, 49-321, 49-1234, 49-1311, 49-1313, 49-1314, 50-2006, 54-204, 54-918, 54-934, 54-1210, 54-1406A, 54-1413, 54-1715, 54-1806, 54-1806A, 54-1820, 54-1837, 54-2080, 54-2118, 54-2221, 54-2601, 54-3204, 54-3404, 54-3913, 54-4603, 56-209j, 56-221, 56-231, 57-133B, 57-911, 58-126, 59-1316, 63-602G, 63-3029B, 63-3045B, 63-3077, 65-301, 66-348, 67-455A, 67-461, 67-1903, 67-2726, 67-2743E, 67-2915, 67-3008, 67-4126, 67-4708, 67-5009, 67-5220, 67-5241, 67-5252, 67-5711C, 67-5711D, 67-5725, 67-5768, 67-5781, 67-7410, 67-7421, 67-7436, 67-7437, 67-7441, 67-7445, 67-8906, 69-250, 69-515, 72-603, 72-926, 72-1007, 72-1342, 72-1372 AND 72-1374, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 1-2103, Idaho Code, be, and the same is hereby amended to read as follows:

1-2103. REMOVAL, DISCIPLINING, OR RETIREMENT OF JUDGES OR JUSTICES -- PROCEDURE. A justice of the Supreme Court or judge of any district court, in accordance with the procedure prescribed in this section, may be disciplined or removed for wilful misconduct in office or wilful and persistent failure to perform his duties or habitual intemperance or conduct prejudicial to the administration of justice that brings judicial office into disrepute, or he may be retired for disability seriously interfering with the performance of his duties, which is, or is likely to become of a permanent character. The judicial council may, after such investigation as the council deems necessary, order a hearing to be held before it concerning the removal, discipline or retirement of a justice or a judge, or the council may in its discretion request the Supreme Court to appoint three (3) special masters, who shall be justices or judges, to hear and take evidence in any such matters, and to report their findings to the council. If, after hearing, or after considering the record and the findings and report of the masters, the council finds good cause therefor, it shall recommend to the Supreme Court the removal, discipline or retirement, as the case may be, of the justice or judge.

The Supreme Court shall review the record of the proceedings on the law and facts and in its discretion may permit the introduction of additional evidence and shall order removal, discipline or retirement, as it finds just and proper, or wholly reject the recommendation. Upon an order for retirement, the justice or judge shall thereby be retired with the same rights and privileges as if he retired pursuant to other provisions of law. Upon an order for removal, the justice or judge shall thereby be removed from office, and his salary shall cease from the date of such order.

All papers filed with and the proceedings before the judicial council or masters appointed by the Supreme Court, pursuant to this section, shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, provided, however, that if allegations against a judge are made public by the complainant, judge or third persons, the judicial council may, in its discretion, comment on the existence, nature, and status of any investigation. The filing of papers with and the giving of testimony before the council or the masters shall be privileged; but no other publication of such papers or proceedings shall be privileged in any action for defamation ex-

cept that (a) the record filed by the council in the Supreme Court continues privileged and upon such filing loses its confidential character and (b) a writing which was privileged prior to its filing with the council or the masters does not lose such privilege by such filing. The judicial council shall by rule provide for procedures under this section, including the exercise of requisite process and subpoena powers. A justice or judge who is a member of the council or Supreme Court shall not participate in any proceedings involving his own removal, discipline or retirement.

This section is alternative to, and cumulative with, the removal of justices and judges by impeachment, and the original supervisory control of members of the judicial system by the Supreme Court.

SECTION 2. That Section 6-1001, Idaho Code, be, and the same is hereby amended to read as follows:

6-1001. HEARING PANEL FOR PRELITIGATION CONSIDERATION OF MEDICAL MALPRACTICE CLAIMS -- PROCEDURE. The Idaho state board of medicine, in alleged malpractice cases involving claims for damages against physicians and surgeons practicing in the state of Idaho or against licensed acute care general hospitals operating in the state of Idaho, is directed to cooperate in providing a hearing panel in the nature of a special civil grand jury and procedure for prelitigation consideration of personal injury and wrongful death claims for damages arising out of the provision of or alleged failure to provide hospital or medical care in the state of Idaho, which proceedings shall be informal and nonbinding, but nonetheless compulsory as a condition precedent to litigation. Proceedings conducted or maintained under the authority of this act shall at all times be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. Formal rules of evidence shall not apply and all such proceedings shall be expeditious and informal.

SECTION 3. That Section 6-1008, Idaho Code, be, and the same is hereby amended to read as follows:

6-1008. CONFIDENTIALITY OF PROCEEDINGS. Neither party shall be entitled, except upon special order of the panel, to attend and participate in the proceedings which shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, and closed to public observation at all times, except during the giving of his or her own testimony or presentation of argument of his or her position, whether by counsel or personally; nor shall there be cross-examination, rebuttal or other customary formalities of civil trials and court proceedings. The panel itself may, however, initiate requests for special or supplemental participation, in particular respects and of some or all parties; and communications between the panel and the parties, excepting only the parties' own testimony on the merits of the dispute, shall be fully disclosed to all other parties.

SECTION 4. That Section 6-1010, Idaho Code, be, and the same is hereby amended to read as follows:

6-1010. FEES FOR PANEL MEMBERS. The Idaho state board of medicine shall provide, by uniform policy of the board, for the payment of fees and expenses of members of panels, such payment to be made from the state board of medicine fund created in section 54-1809, Idaho Code. Panel members shall serve upon the sworn commitment that all related matters shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, and privileged.

SECTION 5. That Section 6-2301, Idaho Code, be, and the same is hereby amended to read as follows:

6-2301. PRELITIGATION HEARING PANEL -- LICENSED NURSING FACILITIES. In the event of an alleged negligence or wrongful death case involving a claim for damages against a licensed nursing facility operating in the state of Idaho, the Idaho state board of examiners of nursing home administrators is directed to cooperate in providing a prelitigation hearing panel. The panel shall operate in the nature of a special civil grand jury and procedure for prelitigation consideration of personal injury and wrongful death claims for damages arising out of the provision of or alleged failure to provide medical, nursing, or health care services in the state of Idaho. The proceedings shall be informal and nonbinding, but shall be compulsory as a condition precedent to litigation. Proceedings conducted or maintained under the authority of this chapter shall at all times be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. Formal rules of evidence shall not apply and all proceedings shall be expeditious and informal.

SECTION 6. That Section 6-2303, Idaho Code, be, and the same is hereby amended to read as follows:

6-2303. FEES -- CONFIDENTIALITY. The Idaho state board of examiners of nursing home administrators shall provide, by uniform policy of the board, for the payment of fees and expenses of members of panels, such payment to be made from the occupational licenses fund. Panel members shall serve upon the sworn commitment that all related matters shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, and privileged.

SECTION 7. That Section 7-1408, Idaho Code, be, and the same is hereby amended to read as follows:

7-1408. CONFIRMATION OF NONLICENSURE. The petitioner or department shall notify the appropriate licensing authority of the commencement of a judicial or administrative proceeding to suspend a license. Notwithstanding any provision of the Idaho public records act, ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, or other statute or ordinance, the licensing authority shall then notify the petitioner or the department if the individual named in the petition is not a licensee.

SECTION 8. That Section 7-1416, Idaho Code, be, and the same is hereby amended to read as follows:

7-1416. COOPERATION BETWEEN LICENSING AUTHORITIES AND THE DEPARTMENT OF HEALTH AND WELFARE. (1) Notwithstanding any provision of the Idaho public records act, ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, or other statute or ordinance, upon request of the department a licensing authority shall provide the name, address, social security number, license renewal date and other identifying information for licensees. The information shall be provided in a manner agreed to by the licensing authority and the department.

(2) The department may enter into a cooperative agreement with a licensing authority to administer this chapter in a cost-effective manner.

SECTION 9. That Section 9-806, Idaho Code, be, and the same is hereby amended to read as follows:

9-806. EXCEPTIONS TO PRIVILEGE. (1) There is no privilege under section 9-804, Idaho Code, for a mediation communication that is:

(a) In an agreement evidenced by a record signed by all parties to the agreement;

(b) Available to the public under ~~sections 9-337 through 9-347~~ chapter 1, title 74, Idaho Code, or made during a session of a mediation which is open, or is required by law to be open, to the public;

(c) A threat or statement of a plan to inflict bodily injury or commit a crime of violence;

(d) Intentionally used to plan a crime, attempt to commit or commit a crime or to conceal an ongoing crime or ongoing criminal activity;

(e) Sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediator;

(f) Except as otherwise provided in subsection (3) of this section, sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediation party, nonparty participant or representative of a party based on conduct occurring during a mediation; or

(g) Sought or offered to prove or disprove abuse, neglect, abandonment or exploitation in a proceeding in which a child or adult protective services agency is a party, unless the public agency participates in the mediation.

(2) There is no privilege under section 9-804, Idaho Code, if a court, administrative agency or arbitrator finds, after a hearing in camera, that the party seeking discovery or the proponent of the evidence has shown that the evidence is not otherwise available, that there is a need for the evidence that substantially outweighs the interest in protecting confidentiality, and that the mediation communication is sought or offered in:

(a) A court proceeding involving a felony or misdemeanor; or

(b) Except as otherwise provided in subsection (3) of this section, a proceeding to prove a claim to rescind or reform or a defense to avoid liability on a contract arising out of the mediation.

(3) A mediator may not be compelled to provide evidence of a mediation communication referred to in subsection (1) (f) or (2) (b) of this section.

(4) If a mediation communication is not privileged under subsection (1) or (2) of this section, only the portion of the communication necessary for the application of the exception from nondisclosure may be admitted. Admission of evidence under subsection (1) or (2) of this section does not render the evidence, or any other mediation communication, discoverable or admissible for any other purpose.

SECTION 10. That Section 9-808, Idaho Code, be, and the same is hereby amended to read as follows:

9-808. CONFIDENTIALITY. Unless subject to ~~sections 9-337 through 9-347~~ chapter 1 or ~~67-2340 through 67-2347~~ 2, title 74, Idaho Code, mediation communications are confidential to the extent agreed by the parties or provided by other law or rule of this state.

SECTION 11. 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) 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 37, title 9~~ chapter 1, title 74, 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.

SECTION 12. That Section 16-1513, Idaho Code, be, and the same is hereby amended to read as follows:

16-1513. REGISTRATION OF NOTICE AND FILING OF PATERNITY PROCEEDINGS. (1) A person who is the father or claims to be the father of a child born out of wedlock may claim rights pertaining to his paternity of the child by commencing proceedings to establish paternity under section 7-1111, Idaho Code, and by filing with the vital statistics unit of the department of health and welfare notice of his filing of proceedings to establish his paternity of the child born out of wedlock. The vital statistics unit of the department of health and welfare shall provide forms for the purpose of filing the notice of filing of paternity proceedings, and the forms shall be made available through the vital statistics unit of the Idaho department of health and welfare and in the office of the county clerk in every county of this state. The forms shall include a written notification that filing pursuant to this section shall not satisfy the requirements of chapter 82, title 39, Idaho Code, and the notification shall also include the following statements:

(a) A parent may make a claim of parental rights of an abandoned child, abandoned pursuant to the provisions of chapter 82, title 39, Idaho Code, as provided by section 39-8206, Idaho Code, by filing a notice of claim of parental rights with the vital statistics unit of the department of health and welfare on a form as prescribed and provided by the vital statistics unit of the department of health and welfare;

(b) The vital statistics unit of the department of health and welfare shall maintain a separate registry for claims to abandoned children, abandoned pursuant to the provisions of chapter 82, title 39, Idaho Code;

(c) The department shall provide forms for the purpose of filing a claim of parental rights of an abandoned child, abandoned pursuant to the provisions of chapter 82, title 39, Idaho Code, and the forms shall be made available through the vital statistics unit of the Idaho department of health and welfare and in the office of the county clerk in every county of this state;

(d) To be valid, a claim of parental rights of an abandoned child, abandoned pursuant to the provisions of chapter 82, title 39, Idaho Code, must be filed before an order terminating parental rights is entered by the court. A parent that fails to file a claim of parental rights prior to entry of an order terminating their parental rights is deemed to have abandoned the child and waived and surrendered any right in relation to



the child, including the right to notice of any judicial proceeding in connection with the termination of parental rights or adoption of the child;

(e) Registration of notice of filing of paternity proceedings pursuant to chapter 15, title 16, Idaho Code, shall not satisfy the requirements of chapter 82, title 39, Idaho Code. To register a parental claim to an abandoned child, abandoned pursuant to the provisions of chapter 82, title 39, Idaho Code, an individual must file an abandoned child registry claim with the vital statistics unit of the department of health and welfare and comply with all other provisions of chapter 82, title 39, Idaho Code, in the time and manner prescribed, in order to preserve parental rights to the child.

When filing a notice of the filing of paternity proceedings, a person who claims to be the father of a child born out of wedlock shall file with the vital statistics unit of the department of health and welfare the completed form prescribed by the vital statistics unit of the department of health and welfare. Said form will be filled out completely, signed by the person claiming paternity, and witnessed before a notary public.

(2) The notice of the filing of paternity proceedings may be filed prior to the birth of the child, but must be filed prior to the date of the filing of any proceeding to terminate the parental rights of the birth mother. The notice of the filing of paternity proceedings shall be signed by the person filing the notice and shall include his name and address, the name and last address of the mother, and either the birth date of the child or the probable month and year of the expected birth of the child. The vital statistics unit of the department of health and welfare shall maintain a central registry for this purpose that shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. The department shall record the date and time the notice of the filing of proceedings is filed with the department. The notice shall be deemed to be duly filed with the department as of the date and time recorded on the notice by the department.

(3) If the unmarried biological father does not know the county in which the birth mother resides, he may initiate his action in any county, subject to a change in venue.

(4) Except as provided in section 16-1504(5), Idaho Code, any father of a child born out of wedlock who fails to file and register his notice of the commencement of paternity proceedings pursuant to section 7-1111, Idaho Code, prior to the date of the filing of any proceeding to terminate the parental rights of the birth mother; the filing of any proceeding to adopt the child; or the execution of a consent to terminate the birth mother's parental rights under the provisions of section 16-2005(4), Idaho Code, whichever occurs first, is deemed to have waived and surrendered any right in relation to the child and of any notice to proceedings for adoption of the child or for termination of parental rights of the birth mother. His consent to the adoption of the child shall not be required and he shall be barred from thereafter bringing or maintaining any action to establish his paternity of the child. Failure of such filing or registration shall constitute an abandonment of said child and shall constitute an irrevocable implied consent in any adoption or termination proceeding.

(5) The filing and registration of an unrevoked notice of the commencement of paternity proceedings by a putative father shall constitute prima facie evidence of the fact of his paternity in any contested proceeding under chapter 11, title 7, Idaho Code. The filing of a notice of the commencement of paternity proceedings shall not be a bar to an action for termination of his parental rights under chapter 20, title 16, Idaho Code.

(6) An unmarried biological father of a child born out of wedlock who has filed and registered a notice of the filing of paternity proceedings may at any time revoke notice of intent to claim paternity previously filed.

Upon receipt of written revocation, the effect shall be as if no notice of the filing of paternity proceedings had been filed or registered.

(7) In any adoption proceeding pertaining to a child born out of wedlock, if there is no showing that the putative father has consented to the adoption, a certificate shall be obtained from the vital statistics unit of the department of health and welfare, signed by the state registrar of vital statistics, which certificate shall state that a diligent search has been made of the registry of notices from putative fathers, and that no filing has been found pertaining to the father of the child in question, or if a filing is found, stating the name of the putative father and the time and date of filing. That certificate shall be filed with the court prior to entry of a final decree of adoption.

(8) Identities of putative fathers can only be released pursuant to procedures contained in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

(9) To cover the cost of implementing and maintaining said central registry, the vital statistics unit of the department of health and welfare shall charge a filing fee of ten dollars (\$10.00) at the time the putative father files his notice of his commencement of proceedings. The department shall also charge a reasonable fee to cover all costs incurred in a search of the Idaho putative father registry and for furnishing a certificate in accordance with the provisions of this section and section 16-1504, Idaho Code. It is the intent of the legislature that the fee shall cover all direct and indirect costs incurred pursuant to this section and section 16-1504, Idaho Code. The department shall annually review the fees and expenses incurred pursuant to administering the provisions of this section and section 16-1504, Idaho Code.

(10) Consistent with its authority denoted in the vital statistics act, section 39-242(c), Idaho Code, the board of health and welfare shall adopt, amend and repeal rules for the purpose of carrying out the provisions of this section.

(11) The department shall produce and distribute, within the limits of continuing annual appropriations duly made available to the department by the legislature for such purposes, a pamphlet or publication informing the public about the Idaho putative father registry, printed in English and Spanish. The pamphlet shall indicate the procedures to be followed in order to receive notice of any proceeding for adoption of a child an unmarried biological father claims to have fathered and of any proceeding for termination of his parental rights, voluntary acknowledgment of paternity, the consequences of acknowledgment of paternity, the consequences of failure to acknowledge paternity and the address of the Idaho putative father registry. Within the limits of continuing annual appropriations duly made available to the department by the legislature for such purposes, such pamphlets or publications shall be made available for distribution to the public at all offices of the department of health and welfare. Upon request the department shall also provide such pamphlets or publications to hospitals, libraries, medical clinics, schools, colleges, universities, providers of child-related services and children's agencies licensed in the state of Idaho or advertising services in the state of Idaho.

(12) Within the limits of continuing annual appropriations duly made available to the department by the legislature for such purposes, each county clerk, branch office of the department of motor vehicles, all offices of the department of health and welfare, hospitals and local health districts shall post in a conspicuous place a notice that informs the public about the purpose and operation of the Idaho putative father registry. The notice must include information regarding the following:

- (a) Where to obtain a registration form;
- (b) Where to register;
- (c) The procedures to follow in order to file proceedings to establish paternity of a child born out of wedlock;

- (d) The consequences of a voluntary acknowledgment of paternity; and
- (e) The consequences of failure to acknowledge paternity.

(13) The department shall host on the department's web page a public service announcement (PSA) informing the public about the Idaho putative father registry, printed in English and Spanish. The PSA shall indicate the procedures to be followed in order to receive notice of any proceeding for adoption of a child an unmarried biological father claims to have fathered and of any proceeding for termination of his parental rights, voluntary acknowledgment of paternity, the consequences of acknowledgment of paternity, the consequences of failure to acknowledge paternity and the address of the Idaho putative father registry.

(14) Failure to post a proper notice under the provisions of this section does not relieve a putative father of the obligation to file notice of the filing of proceedings to establish his paternity pursuant to this section or to commence proceedings to establish paternity pursuant to section 7-1111, Idaho Code, prior to the filing of any proceeding to terminate parental rights of the birth mother.

(15) A person who knowingly or intentionally falsely files or registers as a putative father is guilty of a misdemeanor.

SECTION 13. That Section 16-1629, Idaho Code, be, and the same is hereby amended to read as follows:

16-1629. POWERS AND DUTIES OF THE DEPARTMENT. The department, working in conjunction with the court and other public and private agencies and persons, shall have the primary responsibility to implement the purpose of this chapter. To this end, the department is empowered and shall have the duty to do all things reasonably necessary to carry out the purpose of this chapter, including, but not limited to, the following:

(1) The department shall administer treatment programs for the protection and care of neglected, abused and abandoned children, and in so doing may place in foster care, shelter care, or other diagnostic, treatment, or care centers or facilities, children of whom it has been given custody. The department is to be governed by the standards found in chapter 12, title 39, Idaho Code.

(2) On December 1, the department shall make an annual statistical report to the governor covering the preceding fiscal year showing the number and status of persons in its custody and including such other data as will provide sufficient facts for sound planning in the conservation of children and youth. All officials and employees of the state and of every county and city shall furnish the department, upon request, such information within their knowledge and control as the department deems necessary. Local agencies shall report in such uniform format as may be required by the department.

(3) The department shall be required to maintain a central registry for the reporting of child neglect, abuse and abandonment information. Provided however, that the department shall not retain any information for this purpose relating to a child, or parent of a child, abandoned pursuant to chapter 82, title 39, Idaho Code.

(4) The department shall make periodic evaluation of all persons in its custody or under its protective supervision for the purpose of determining whether existing orders and dispositions in individual cases shall be modified or continued in force. Evaluations may be made as frequently as the department considers desirable and shall be made with respect to every person at intervals not exceeding six (6) months. Reports of evaluation made pursuant to this section shall be filed with the court that has jurisdiction. Reports of evaluation shall be provided to persons having full or partial legal or physical custody of a child. Failure of the department to evaluate a person or to reevaluate him within six (6) months of a previous examination

shall not of itself entitle the person to a change in disposition but shall entitle him, his parent, guardian or custodian or his counsel to petition the court pursuant to section 16-1622, Idaho Code.

(5) In a consultive capacity, the department shall assist communities in the development of constructive programs for the protection, prevention and care of children and youth.

(6) The department shall keep written records of investigations, evaluations, prognoses and all orders concerning disposition or treatment of every person over whom it has legal custody or under its protective supervision. Department records shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, unless otherwise ordered by the court, the person consents to the disclosure, or disclosure is necessary for the delivery of services to the person. Notwithstanding the provisions restricting disclosure or the exemptions from disclosure provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, all records pertaining to investigations, the rehabilitation of youth, the protection of children, evaluation, treatment and/or disposition records pertaining to the statutory responsibilities of the department shall be disclosed to any duly elected state official carrying out his official functions.

(7) The department shall establish appropriate administrative procedures for the processing of complaints of child neglect, abuse and abandonment received and for the implementation of the protection, treatment and care of children formally or informally placed in the custody of the department or under its protective supervision under this chapter including, but not limited to:

(a) Department employees whose job duties are related to the child protective services system under this chapter shall first be trained as to their obligations under this chapter regarding the protection of children whose health and safety may be endangered. The curriculum shall include information regarding their legal duties, how to conduct their work in conformity with the requirements of this chapter, information regarding applicable federal and state laws with regard to the rights of the child, parent and others who may be under investigation under the child protective services system, and the applicable legal and constitutional parameters within which they are to conduct their work.

(b) Department employees whose job duties are related to the child protective services system shall advise the individual of the complaints or allegations made against the individual at the time of the initial contact, consistent with protecting the identity of the referent.

(8) The department having been granted legal custody of a child, subject to the judicial review provisions of this subsection, shall have the right to determine where and with whom the child shall live, provided that the child shall not be placed outside the state without the court's consent. Provided however, that the court shall retain jurisdiction over the child, which jurisdiction shall be entered on any order or petition granting legal custody to the department, and the court shall have jurisdiction over all matters relating to the child. The department shall not place the child in the home from which the court ordered the child removed without first obtaining the approval of the court.

(9) The department shall give to the court any information concerning the child that the court may at any time require, but in any event shall report the progress of the child under its custody or under its protective supervision at intervals of not to exceed six (6) months. The department shall file with the court at least five (5) days prior to the permanency hearing either under section 16-1622, Idaho Code, or, in the case of a finding of aggravated circumstances, section 16-1620, Idaho Code, the permanency plan and recommendations of the department.

(10) The department shall establish appropriate administrative procedures for the conduct of administrative reviews and hearings as required by

federal statute for all children committed to the department and placed in out of the home care.

(11) At any time the department is considering a placement pursuant to this chapter, the department shall make a reasonable effort to place the child in the least restrictive environment to the child and in so doing shall consider, consistent with the best interest and special needs of the child, placement priority of the child in the following order:

- (a) A fit and willing relative.
- (b) A fit and willing nonrelative with a significant relationship with the child.
- (c) Foster parents and other persons licensed in accordance with chapter 12, title 39, Idaho Code.

SECTION 14. That Section 18-609A, Idaho Code, be, and the same is hereby amended to read as follows:

18-609A. CONSENT REQUIRED FOR ABORTIONS FOR MINORS. (1) Except as otherwise provided in this section, a person shall not knowingly perform an abortion on a pregnant unemancipated minor unless the attending physician has secured the written consent from one (1) of the minor's parents or the minor's guardian or conservator.

(2) A judge of the district court shall, on petition or motion, and after an appropriate hearing, authorize a physician to perform the abortion if the judge determines, by clear and convincing evidence, that:

- (a) The pregnant minor is mature and capable of giving informed consent to the proposed abortion; or
- (b) The performance of an abortion would be in her best interests.

(3) The pregnant minor may participate in the court proceedings on her own behalf. The court may appoint a guardian ad litem for her. The court shall provide her with counsel unless she appears through private counsel.

(4) Proceedings in the court under this section shall be closed and have precedence over other pending matters. A judge who conducts proceedings under this section shall make in writing specific factual findings and legal conclusions supporting the decision and shall order a confidential record of the evidence to be maintained including the judge's own findings and conclusions. The minor may file the petition using a fictitious name. All records contained in court files of judicial proceedings arising under the provisions of this section shall be confidential and exempt from disclosure pursuant to section 9-340G 74-110, Idaho Code. Dockets and other court records shall be maintained and court proceedings undertaken so that the names and identities of the parties to actions brought pursuant to this section will not be disclosed to the public.

(5) The court shall hold the hearing within forty-eight (48) hours, excluding weekends and holidays, after the petition is filed, and shall issue its ruling at the conclusion of the hearing. If the court fails to issue its ruling at the conclusion of the hearing, the petition is deemed to have been granted and the consent requirement is waived.

(6) An expedited confidential appeal is available to a pregnant minor for whom the court denies an order authorizing an abortion without parental consent. A minor shall file her notice of appeal within five (5) days, excluding weekends and holidays, after her petition was denied by the district court. The appellate court shall hold the hearing within forty-eight (48) hours, excluding weekends and holidays, after the notice of appeal is filed and shall issue its ruling at the conclusion of the hearing. If the appellate court fails to issue its ruling at the conclusion of the hearing, the petition is deemed to have been granted and the consent requirement is waived. Filing fees are not required of the pregnant minor at either the district court or the appellate level.

(7) Parental consent or judicial authorization is not required under this section if either:

(a) The pregnant minor certifies to the attending physician that the pregnancy resulted from rape as defined in section 18-6101, Idaho Code, excepting subsections (1) and (2) thereof, or sexual conduct with the minor by the minor's parent, stepparent, uncle, grandparent, sibling, adoptive parent, legal guardian or foster parent.

(b) A medical emergency exists for the minor and the attending physician records the symptoms and diagnosis upon which such judgment was made in the minor's medical record.

SECTION 15. That Section 18-1359, Idaho Code, be, and the same is hereby amended to read as follows:

18-1359. USING PUBLIC POSITION FOR PERSONAL GAIN. (1) No public servant shall:

(a) Without the specific authorization of the governmental entity for which he serves, use public funds or property to obtain a pecuniary benefit for himself.

(b) Solicit, accept or receive a pecuniary benefit as payment for services, advice, assistance or conduct customarily exercised in the course of his official duties. This prohibition shall not include trivial benefits not to exceed a value of fifty dollars (\$50.00) incidental to personal, professional or business contacts and involving no substantial risk of undermining official impartiality.

(c) Use or disclose confidential information gained in the course of or by reason of his official position or activities in any manner with the intent to obtain a pecuniary benefit for himself or any other person or entity in whose welfare he is interested or with the intent to harm the governmental entity for which he serves.

(d) Be interested in any contract made by him in his official capacity, or by any body or board of which he is a member, except as provided in section 18-1361, Idaho Code.

(e) Appoint or vote for the appointment of any person related to him by blood or marriage within the second degree, to any clerkship, office, position, employment or duty, when the salary, wages, pay or compensation of such appointee is to be paid out of public funds or fees of office, or appoint or furnish employment to any person whose salary, wages, pay or compensation is to be paid out of public funds or fees of office, and who is related by either blood or marriage within the second degree to any other public servant when such appointment is made on the agreement or promise of such other public servant or any other public servant to appoint or furnish employment to anyone so related to the public servant making or voting for such appointment. Any public servant who pays out of any public funds under his control or who draws or authorizes the drawing of any warrant or authority for the payment out of any public fund of the salary, wages, pay, or compensation of any such ineligible person, knowing him to be ineligible, is guilty of a misdemeanor and shall be punished as provided in this chapter.

(f) Unless specifically authorized by another provision of law, commit any act prohibited of members of the legislature or any officer or employee of any branch of the state government by section 67-5726, Idaho Code, violations of which are subject to penalties as provided in section 67-5734, Idaho Code, which prohibition and penalties shall be deemed to extend to all public servants pursuant to the provisions of this section.

(2) No person related to any member of the legislature by blood or marriage within the second degree shall be appointed to any clerkship, office, position, employment or duty within the legislative branch of government

or otherwise be employed by the legislative branch of government when the salary, wages, pay or compensation of such appointee or employee is to be paid out of public funds.

(3) No person related to a mayor or member of a city council by blood or marriage within the second degree shall be appointed to any clerkship, office, position, employment or duty with the mayor's or city council's city when the salary, wages, pay or compensation of such appointee or employee is to be paid out of public funds.

(4) No person related to a county commissioner by blood or marriage within the second degree shall be appointed to any clerkship, office, position, employment or duty with the commissioner's county when the salary, wages, pay or compensation of such appointee or employee is to be paid out of public funds.

(5) (a) An employee of a governmental entity holding a position prior to the election of a local government official, who is related within the second degree, shall be entitled to retain his or her position and receive general pay increases, step increases, cost of living increases, and/or other across the board increases in salary or merit increases, benefits and bonuses or promotions.

(b) Nothing in this section shall be construed as creating any property rights in the position held by an employee subject to this section, and all authority in regard to disciplinary action, transfer, dismissal, demotion or termination shall continue to apply to the employee.

(6) The prohibitions contained within this section shall not include conduct defined by the provisions of section ~~59-703~~ 74-403(4), Idaho Code.

(7) The prohibitions within this section and section 18-1356, Idaho Code, as it applies to part-time public servants, do not include those actions or conduct involving the public servant's business, profession or occupation and unrelated to the public servant's official conduct, and do not apply to a pecuniary benefit received in the normal course of a legislator's business, profession or occupation and unrelated to any bill, legislation, proceeding or official transaction.

SECTION 16. That Section 18-3302, Idaho Code, be, and the same is hereby amended to read as follows:

18-3302. ISSUANCE OF LICENSES TO CARRY CONCEALED WEAPONS. (1) The sheriff of a county, on behalf of the state of Idaho, shall, within ninety (90) days after the filing of an application by any person who is not disqualified from possessing or receiving a firearm under state or federal law, issue a license to the person to carry a weapon concealed on his person within this state. For licenses issued before July 1, 2006, a license shall be valid for four (4) years from the date of issue. For licenses issued on or after July 1, 2006, a license shall be valid for five (5) years from the date of issue. The citizen's constitutional right to bear arms shall not be denied to him, unless one (1) of the following applies. He:

- (a) Is ineligible to own, possess or receive a firearm under the provisions of state or federal law;
- (b) Is formally charged with a crime punishable by imprisonment for a term exceeding one (1) year;
- (c) Has been adjudicated guilty in any court of a crime punishable by imprisonment for a term exceeding one (1) year;
- (d) Is a fugitive from justice;
- (e) Is an unlawful user of, or addicted to, marijuana or any depressant, stimulant or narcotic drug, or any other controlled substance as defined in 21 U.S.C. 802;
- (f) Is currently suffering or has been adjudicated as follows, based on substantial evidence:

- (i) Lacking mental capacity as defined in section 18-210, Idaho Code;
  - (ii) Mentally ill as defined in section 66-317, Idaho Code;
  - (iii) Gravely disabled as defined in section 66-317, Idaho Code;
  - or
  - (iv) An incapacitated person as defined in section 15-5-101(a), Idaho Code.
- (g) Is or has been discharged from the armed forces under dishonorable conditions;
- (h) Is or has been adjudicated guilty of or received a withheld judgment or suspended sentence for one (1) or more crimes of violence constituting a misdemeanor, unless three (3) years have elapsed since disposition or pardon has occurred prior to the date on which the application is submitted;
- (i) Has had entry of a withheld judgment for a criminal offense which would disqualify him from obtaining a concealed weapon license;
- (j) Is an alien illegally in the United States;
- (k) Is a person who having been a citizen of the United States has renounced his or her citizenship;
- (l) Is under twenty-one (21) years of age;
- (m) Is free on bond or personal recognizance pending trial, appeal or sentencing for a crime which would disqualify him from obtaining a concealed weapon license; or
- (n) Is subject to a protection order issued under chapter 63, title 39, Idaho Code, that restrains the person from harassing, stalking or threatening an intimate partner of the person or child of the intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child.

The license application shall be in a form to be prescribed by the director of the Idaho state police, and shall ask the name, address, description and signature of the licensee, date of birth, place of birth, social security number, military status, citizenship and the driver's license number or state identification card number of the licensee if used for identification in applying for the license. The application shall indicate that provision of the social security number is optional. The license application shall contain a warning substantially as follows:

**CAUTION:** Federal law and state law on the possession of weapons and firearms differ. If you are prohibited by federal law from possessing a weapon or a firearm, you may be prosecuted in federal court. A state permit is not a defense to a federal prosecution.

The sheriff shall require any person who is applying for original issuance of a license to submit his fingerprints in addition to the other information required in this subsection. Within five (5) days after the filing of an application, the sheriff shall forward the application and fingerprints to the Idaho state police for a records check of state and national files. The Idaho state police shall conduct a national fingerprint-based records check and return the results to the sheriff within seventy-five (75) days. The sheriff shall not issue a license before receiving the results of the records check and must deny a license if the applicant is disqualified under any of the criteria listed in paragraphs (a) through (n) of this subsection. In the event the sheriff has collected a fee to cover the cost of processing fingerprints for the records check, the sheriff shall provide the applicant with a copy of the results of the records check upon request of the applicant.



The license will be in a form substantially similar to that of the Idaho driver's license. It will bear the signature, name, address, date of birth, picture of the licensee, expiration date and the driver's license number or state identification card number of the licensee if used for identification in applying for the license. Upon issuing a license under the provisions of this section, the sheriff will notify the Idaho state police on a form or in a manner prescribed by the state police. Information relating to an applicant or licensee received or maintained pursuant to this section by the sheriff or Idaho state police is confidential and exempt from disclosure under section 9-338 74-102, Idaho Code.

(2) The fee for original issuance of a license shall be twenty dollars (\$20.00) paid to the sheriff for the purpose of enforcing the provisions of this chapter. The sheriff may collect any additional fees necessary to cover the cost of processing fingerprints lawfully required by any state or federal agency or department, and the cost of materials for the license lawfully required by any state agency or department, which costs shall be paid to the state.

(3) The fee for renewal of the license shall be fifteen dollars (\$15.00). The sheriff may collect any additional fees necessary to cover the processing costs lawfully required by any state or federal agency or department, and the cost of materials for the license lawfully required by any state agency or department, which costs shall be paid to the state. If a licensee applying for renewal has not previously been required to submit fingerprints, the sheriff shall require the licensee to do so and may collect any additional fees necessary to cover the cost of processing fingerprints lawfully required by any state or federal agency or department.

(4) Every license that is not, as provided by law, suspended, revoked or disqualified in this state shall be renewable at any time during the ninety (90) day period before its expiration or within ninety (90) days after the expiration date. Renewal notices shall be mailed out ninety (90) days prior to the expiration date of the license. The sheriff shall require the licensee applying for renewal to complete an application. The sheriff shall submit the application to the Idaho state police for a records check of state and national databases. The Idaho state police shall conduct the records check and return the results to the sheriff within thirty (30) days. The sheriff shall not issue a renewal before receiving the results of the records check and must deny a license if the applicant is disqualified under any of the criteria listed in subsection (1), paragraphs (a) through (n) of this section. A renewal license shall be valid for a period of five (5) years. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing ninety-one (91) days to one hundred eighty (180) days after the expiration date of the license shall pay a late renewal penalty of ten dollars (\$10.00) in addition to the renewal fee, except that any licensee serving on active duty in the armed forces of the United States during the renewal period shall not be required to pay a late renewal penalty upon renewing ninety-one (91) days to one hundred eighty (180) days after the expiration date of the license. After one hundred eighty-one (181) days, the licensee shall be required to submit an initial application for a license and to pay the fees prescribed in subsection (2) of this section. The renewal fee and any penalty shall be paid to the sheriff for the purpose of enforcing the provisions of this chapter. Upon renewing a license under the provisions of this section, the sheriff shall notify the Idaho state police within five (5) days on a form or in a manner prescribed.

(5) Notwithstanding the requirements of this section, the sheriff of the county of the applicant's residence may issue a temporary emergency license for good cause pending review under subsection (1) of this section.

(6) A city, county or other political subdivision of this state shall not modify the requirements of this section, nor may a political subdivi-

sion ask the applicant to voluntarily submit any information not required in this section. A civil action may be brought to enjoin a wrongful refusal to issue a license or a wrongful modification of the requirements of this section. The civil action may be brought in the county in which the application was made or in Ada county at the discretion of the petitioner. Any person who prevails against a public agency in any action in the courts for a violation of subsections (1) through (5) of this section, shall be awarded costs, including reasonable attorney's fees incurred in connection with the legal action.

(7) Except in the person's place of abode or fixed place of business, or on property in which the person has any ownership or leasehold interest, a person shall not carry a concealed weapon without a license to carry a concealed weapon. For the purposes of this section, a concealed weapon means any dirk, dirk knife, bowie knife, dagger, pistol, revolver or any other deadly or dangerous weapon. The provisions of this section shall not apply to any lawfully possessed shotgun or rifle, any knife, cleaver or other instrument primarily used in the processing, preparation or eating of food, any knife with a blade four (4) inches or less or any lawfully possessed taser, stun gun or pepper spray.

(8) A county sheriff, deputy sheriff or county employee who issues a license to carry a concealed weapon under this section shall not incur any civil or criminal liability as the result of the performance of his duties under this section.

(9) While in any motor vehicle, inside the limits or confines of any city, a person shall not carry a concealed weapon on or about his person without a license to carry a concealed weapon. This shall not apply to any firearm located in plain view whether it is loaded or unloaded. A firearm may be concealed legally in a motor vehicle so long as the weapon is disassembled or unloaded.

(10) In implementing the provisions of this section on behalf of the state of Idaho, the sheriff shall make applications readily available at the office of the sheriff or at other public offices in his jurisdiction.

(11) The sheriff of a county may issue a license to carry a concealed weapon to those individuals between the ages of eighteen (18) and twenty-one (21) years who in the judgment of the sheriff warrant the issuance of the license to carry a concealed weapon. Such issuance shall be subject to limitations which the issuing authority deems appropriate. Licenses issued to individuals between the ages of eighteen (18) and twenty-one (21) years shall be easily distinguishable from regular licenses.

(12) The requirement to secure a license to carry a concealed weapon under this section shall not apply to the following persons:

(a) Officials of a county, city, state of Idaho, the United States, peace officers, guards of any jail, court appointed attendants or any officer of any express company on duty;

(b) Employees of the adjutant general and military division of the state where military membership is a condition of employment when on duty;

(c) Criminal investigators of the attorney general's office, criminal investigators of a prosecuting attorney's office, prosecutors and their deputies;

(d) Any person outside the limits of or confines of any city while engaged in lawful hunting, fishing, trapping or other lawful outdoor activity;

(e) Any publicly elected Idaho official;

(f) Retired peace officers or detention deputies with at least ten (10) years of service with the state or a political subdivision as a peace officer or detention deputy and who have been certified by the peace officer standards and training council;

(g) Any person who has a valid permit from a state or local law enforcement agency or court authorizing him to carry a concealed weapon. A permit issued in another state will only be considered valid if the permit is in the licensee's physical possession.

(13) When issuing a license pursuant to this section, the sheriff may require the applicant to demonstrate familiarity with a firearm and shall accept any of the following, provided the applicant may select whichever of the following applies:

(a) Completion of any hunter education or hunter safety course approved by the department of fish and game or a similar agency of another state;

(b) Completion of any national rifle association firearms safety or training course or any national rifle association hunter education course;

(c) Completion of any firearms safety or training course or class available to the general public offered by a law enforcement agency, community college, college, university, or private or public institution or organization or firearms training school, utilizing instructors certified by the national rifle association or the Idaho state police;

(d) Completion of any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of a law enforcement agency or security enforcement agency;

(e) Presents evidence or equivalent experience with a firearm through participation in organized shooting competition or military service;

(f) Is licensed or has been licensed to carry a firearm in this state or a county or municipality, unless the license has been revoked for cause; or

(g) Completion of any firearms training or training or safety course or class conducted by a state certified or national rifle association certified firearms instructor.

(14) A person carrying a concealed weapon in violation of the provisions of this section shall be guilty of a misdemeanor.

(15) The sheriff of the county where the license was issued or the sheriff of the county where the person resides shall have the power to revoke a license subsequent to a hearing in accordance with the provisions of chapter 52, title 67, Idaho Code, for any of the following reasons:

(a) Fraud or intentional misrepresentation in the obtaining of a license;

(b) Misuse of a license, including lending or giving a license to another person, duplicating a license or using a license with the intent to unlawfully cause harm to a person or property;

(c) The doing of an act or existence of a condition which would have been grounds for the denial of the license by the sheriff;

(d) The violation of any of the terms of this section; or

(e) The applicant is adjudicated guilty of or receives a withheld judgment for a crime which would have disqualified him from initially receiving a license.

(16) A person twenty-one (21) years of age or older issued a license to carry a concealed weapon is exempt from any requirement to undergo a records check at the time of purchase or transfer of a firearm from a federally licensed firearms dealer. However, a temporary emergency license issued under subsection (5) of this section shall not exempt the holder of the license from any records check requirement. Temporary emergency licenses shall be easily distinguishable from regular licenses.

(17) The attorney general is authorized to negotiate reciprocal agreements with other states related to the recognition of licenses to carry concealed weapons. The Idaho state police shall keep a copy and maintain a record of all such agreements, which shall be made available to the public.

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

SECTION 17. That Section 18-3302H, Idaho Code, be, and the same is hereby amended to read as follows:

18-3302H. CARRYING OF CONCEALED FIREARMS BY QUALIFIED RETIRED LAW ENFORCEMENT OFFICERS. (1) A county sheriff shall issue a license to carry a concealed firearm to a qualified retired law enforcement officer provided that the provisions of this section are met.

(2) As used in this section:

(a) "Firearm" means a handgun and does not include:

- (i) Any machine gun, as defined in 26 U.S.C. section 5845 (b);
- (ii) Any firearm silencer, as defined in 18 U.S.C. section 921; or
- (iii) Any destructive device, as defined in 18 U.S.C. section 921.

(b) "Qualified retired law enforcement officer" means an individual who:

- (i) Retired in good standing from service with a public agency as a law enforcement officer, provided that such retirement was for reasons other than mental instability;
- (ii) Before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;
- (iii) Before such retirement, was regularly employed as a law enforcement officer for an aggregate of fifteen (15) years or more, or retired from service with such agency after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;
- (iv) Has a nonforfeitable right to benefits under the retirement plan of the agency;
- (v) During the most recent twelve (12) month period has met, at his own expense, the standards for training and qualification of this state, as required at the discretion of the sheriff under paragraph (d) of this subsection or the agency from which he retired for active law enforcement officers, to carry a concealed firearm;
- (vi) Is not chronically under the influence of alcohol, or under the influence of another intoxicating or hallucinatory drug or substance in violation of any provision of federal or state law;
- (vii) Is not prohibited by federal law from receiving a firearm;
- (viii) Has a current and valid photographic identification issued by the agency from which the individual retired from service as a law enforcement officer;
- (ix) Provides by his affidavit, in triplicate, sworn and signed by him under penalty of perjury, that he meets all of the conditions set forth in this subsection (2);
- (x) Pays the fees charged by the sheriff pursuant to this section; and
- (xi) Completes the original application or renewal application as provided by this section.

(c) "Retired in good standing" means that at the time of his retirement, he was not under investigation, or subject to discipline, for any violation of this state's law enforcement code of conduct.

(d) "Standards for training and qualification in this state" means that when issuing a license pursuant to this section, the sheriff may require the applicant to demonstrate familiarity with a firearm by any of the

following methods, provided the sheriff may require an applicant to complete more than one (1) firearms safety or training course:

- (i) Completion of any hunter education or hunter safety course approved by the department of fish and game or a similar agency of another state;
- (ii) Completion of any national rifle association firearms safety or training course, or any national rifle association hunter education course;
- (iii) Completion of any firearms safety or training course or class available to the general public offered by a law enforcement agency, community college, college, university, or private or public institution or organization or firearms training school, utilizing instructors certified by the national rifle association or the Idaho state police;
- (iv) Completion of any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of a law enforcement agency or security enforcement agency;
- (v) Presentation of evidence of equivalent experience with a firearm through participation in organized shooting competitions or military service;
- (vi) Completion of any firearms training or training or safety course or class conducted by a state certified or national rifle association certified firearms instructor; or
- (vii) Any other firearms safety training that the sheriff may deem appropriate.

(3) The original and renewal license applications under this section shall be in triplicate, in a form to be prescribed by the director of the Idaho state police, and shall ask the name, address, description and signature of the licensee, date of birth, social security number, military status, identification of the law enforcement agency from which the applicant retired, and the driver's license number or state identification card number of the licensee if used for identification in applying for the license. The application shall indicate that provision of the social security number is optional. In implementing the provisions of this section, the sheriff shall make applications readily available at the office of the sheriff or at other public offices in his jurisdiction.

(4) The fee for original issuance of a license under this section shall be twenty dollars (\$20.00), paid to the sheriff. The sheriff may also collect any additional fees necessary to cover the cost of processing and the cost of materials for the license, which shall also be paid to the sheriff.

(5) An original or renewed license issued pursuant to this section shall be in a form substantially similar to that of the Idaho driver's license and shall be valid for a period of one (1) year. The license shall bear the signature, name, address, date of birth, picture of the licensee, expiration date, and the driver's license number or state identification card number of the licensee if used for identification in applying for the license, and shall state that the licensee is a qualified retired law enforcement officer. Upon issuing a license under the provisions of this section, the sheriff shall notify the Idaho state police on a form or in a manner prescribed by the director of the Idaho state police.

(6) A qualified retired law enforcement licensee under this section may renew his license if he applies for renewal at any time before or within ninety (90) days after the expiration date of the license. The sheriff shall require the licensee applying for renewal to complete a renewal application pursuant to subsection (3) of this section and an affidavit pursuant to subsection (2) of this section. A renewed license shall take effect upon the expiration date of the prior license.

(7) The fee for renewal of the license, which must be paid on a yearly basis, shall be twelve dollars (\$12.00), paid to the sheriff. The sheriff may also collect any additional fees necessary to cover the processing costs and the cost of materials for the license, which shall also be paid to the sheriff. A licensee renewing after the expiration date of the license shall pay a late renewal penalty of ten dollars (\$10.00) in addition to the renewal fee. The renewal penalty fee, if any, shall be paid to the sheriff.

(8) A current and valid photographic identification issued by the agency from which the individual retired from service as a law enforcement officer, together with a license issued by the sheriff pursuant to this section, shall serve as a license to carry a firearm for a qualified retired law enforcement officer under 18 U.S.C. section 926C.

(9) The sheriff of the county where the license was issued or the sheriff of the county where the person resides shall have the power to revoke a license issued under this section pursuant to the provisions of section 18-3302(15), Idaho Code.

(10) A county sheriff, deputy sheriff, or county employee who issues a license to carry a concealed weapon pursuant to this section shall not incur any civil or criminal liability as the result of the performance of his duties under this section.

(11) A city, county or other political subdivision of this state shall not modify the requirements of this section, nor shall a political subdivision ask the applicant to voluntarily submit any information not required by this section.

(12) A civil action may be brought to enjoin a wrongful refusal to issue a license or a wrongful modification of the requirements of this section. The civil action shall be brought in the county in which the application was made.

(13) In lieu of or in addition to qualification to carry a concealed firearm under this section, a retired law enforcement officer may apply for a license to carry concealed weapons under section 18-3302, Idaho Code.

(14) Information relating to an applicant or licensee received or maintained pursuant to this section by the sheriff or Idaho state police is confidential and exempt from disclosure under section 9-338 74-102, Idaho Code.

SECTION 18. That Section 18-3302K, Idaho Code, be, and the same is hereby amended to read as follows:

18-3302K. ISSUANCE OF ENHANCED LICENSES TO CARRY CONCEALED WEAPONS. (1) The sheriff of a county shall, within ninety (90) days after the filing of an application by any person who is not disqualified from possessing or receiving a firearm under state or federal law and has otherwise complied with the requirements of this section for an enhanced license, issue an enhanced license to the person to carry a weapon concealed on his person. Licenses issued under this section shall be valid for five (5) years from the date of issue.

(2) A person may file an application with the sheriff of the county in which he resides or, if not an Idaho resident, with the sheriff of any county in Idaho. The license application shall be in a form to be prescribed by the director of the Idaho state police, and shall ask the name, address, description and signature of the licensee, date of birth, place of birth, social security number, military status, citizenship and the driver's license number or state identification card number of the licensee if used for identification in applying for the license. If the applicant is not a U.S. citizen, the application shall also require any alien or admission number issued to the applicant by U.S. immigration and customs enforcement, or any successor agency. The application shall indicate that the provision of the social security number is optional. The sheriff shall make such applications readily available at the office of the sheriff or at other public offices in his ju-

risdiction. The license application shall contain a warning substantially as follows:

CAUTION: Federal law and state law on the possession of weapons and firearms differ. If you are prohibited by federal law from possessing a weapon or a firearm, you may be prosecuted in federal court. A state permit is not a defense to a federal prosecution.

(3) The sheriff shall require any person who is applying for original issuance of a license to submit his fingerprints in addition to the other information required in this section. Within five (5) days after the filing of an application, the sheriff shall forward the application and fingerprints to the Idaho state police. The Idaho state police shall conduct a national fingerprint-based records check, an inquiry through the national instant criminal background check system, and a check of any applicable state database, including a check for any mental health records that would disqualify a person from possessing a firearm under state or federal law, and shall return the results to the sheriff within seventy-five (75) days. If the applicant is not a U.S. citizen, an immigration alien query shall also be conducted through U.S. immigration and customs enforcement or any successor agency. The sheriff shall not issue a license before receiving and reviewing the results of the records check.

(4) The sheriff shall deny an enhanced license to carry a concealed weapon if the applicant is disqualified under any of the criteria listed in section 18-3302(1) (a) through (n), Idaho Code, or does not meet all of the following qualifications:

(a) Has been a legal resident of the state of Idaho for at least six (6) consecutive months before filing an application under this section or holds a current license or permit to carry concealed firearms issued by his state of residence; and

(b) Has successfully completed within twelve (12) months immediately preceding filing an application, a qualifying handgun course as specified in this paragraph and taught by a certified instructor who is not prohibited from possessing firearms under state or federal law. A copy of the certificate of successful completion of the handgun course, in a form to be prescribed by the director of the Idaho state police and signed by the course instructor, shall be submitted to the sheriff at the time of filing an application under this section. Certified instructors of handgun courses when filing an application under this section shall not be required to submit such certificates but shall submit a copy of their current instructor's credential. The sheriff shall accept as a qualifying handgun course a personal protection course offered by the national rifle association or an equivalent course meeting the following requirements:

(i) The course instructor is certified by the national rifle association, or by another nationally recognized organization that customarily certifies firearms instructors, as an instructor in personal protection with handguns, or the course instructor is certified by the Idaho peace officers standards and training council as a firearms instructor;

(ii) The course is at least eight (8) hours in duration;

(iii) The course is taught face to face and not by electronic or other means; and

(iv) The course includes instruction in:

1. Idaho law relating to firearms and the use of deadly force, provided that such instruction is delivered by either of the following whose name and credential shall appear on the certificate:

(A) An active licensed member of the Idaho state bar;  
or

(B) A law enforcement officer who possesses an intermediate or higher Idaho peace officers standards and training certificate.

2. The basic concepts of the safe and responsible use of handguns;

3. Self-defense principles; and

4. Live fire training including the firing of at least ninety-eight (98) rounds by the student.

(5) The license will be in a form substantially similar to that of the Idaho driver's license. It will bear the signature, name, address, date of birth, picture of the licensee, expiration date and the driver's license number or state identification card number of the licensee if used for identification in applying for the license. The license shall be clearly distinguishable from a license issued pursuant to section 18-3302, Idaho Code, and shall be marked "Idaho enhanced concealed weapons license" on its face. Upon issuing a license under the provisions of this section, the sheriff shall notify the Idaho state police within three (3) days on a form or in a manner prescribed by the Idaho state police. Information relating to an applicant or licensee received or maintained pursuant to this section by the sheriff or Idaho state police is confidential and exempt from disclosure under section ~~9-340B~~ 74-105, Idaho Code.

(6) The fee for original issuance of a license shall be twenty dollars (\$20.00), which the sheriff shall retain for the purpose of performing the duties required in this section. The sheriff may collect any additional fees necessary to cover the processing costs lawfully required by any state or federal agency or department, and the cost of materials for the license lawfully required by any state agency or department, which costs shall be paid to the state.

(7) The fee for renewal of the enhanced license shall be fifteen dollars (\$15.00), which the sheriff shall retain for the purpose of performing duties required in this section. The sheriff may collect any additional fees necessary to cover the processing costs lawfully required by any state or federal agency or department, and the cost of materials for the license lawfully required by any state agency or department, which costs shall be paid to the state.

(8) Every license that is not, as provided by law, suspended, revoked or disqualified in this state shall be renewable at any time during the ninety (90) day period before its expiration or within ninety (90) days after the expiration date. Renewal notices shall be mailed out ninety (90) days prior to the expiration date of the license. The sheriff shall require the licensee applying for renewal to complete an application. The sheriff shall submit the application to the Idaho state police. The Idaho state police shall conduct the same records checks as required for an initial license under subsection (3) of this section and shall return the results to the sheriff within thirty (30) days. The sheriff shall not issue a renewal before receiving and reviewing the results of the records check and must deny a license if the applicant is disqualified under any of the criteria provided in this section. A renewal license shall be valid for a period of five (5) years. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing ninety-one (91) days to one hundred eighty (180) days after the expiration date of the license shall pay a late renewal penalty of ten dollars (\$10.00) in addition to the renewal fee, except that any licensee serving on active duty in the armed forces of the United States during the renewal period shall not be required to pay a late renewal penalty upon renewing ninety-one (91) days to one hundred eighty (180) days after the expiration date of the license. After one hundred eighty-one (181) days, the licensee shall be required to submit an



initial application for an enhanced license and to pay the fees prescribed in subsection (6) of this section. The renewal fee and any penalty shall be paid to the sheriff for the purpose of enforcing the provisions of this chapter. Upon renewing a license under the provisions of this section, the sheriff shall notify the Idaho state police within five (5) days on a form or in a manner prescribed by the Idaho state police.

(9) The sheriff shall have the power to revoke a license issued pursuant to this section subsequent to a hearing in accordance with the provisions of chapter 52, title 67, Idaho Code, for any of the following reasons, provided that the sheriff shall notify the Idaho state police within three (3) days on a form or in a manner prescribed by the Idaho state police of any such revocation:

- (a) Fraud or intentional misrepresentation in the obtaining of a license;
- (b) Misuse of a license, including lending or giving a license to another person, duplicating a license or using a license with the intent to unlawfully cause harm to a person or property;
- (c) The doing of an act or existence of a condition that would have been grounds for the denial of the license by the sheriff;
- (d) The violation of any of the provisions of this section; or
- (e) The applicant is adjudicated guilty of or receives a withheld judgment for a crime that would have disqualified him from initially receiving a license.

(10) An applicant who provides information on the application for an enhanced license to carry a concealed weapon knowing the same to be untrue shall be guilty of a misdemeanor.

(11) The attorney general shall contact the appropriate officials in other states for the purpose of establishing, to the extent possible, recognition and reciprocity of the enhanced license to carry a concealed weapon by other states, whether by formal agreement or otherwise.

(12) Any license issued pursuant to this section is valid throughout the state of Idaho and shall be considered an authorized state license.

(13) The Idaho state police shall maintain a computerized record system that is accessible to law enforcement agencies in any state for the purpose of verifying current enhanced licensee status. Information maintained in the record system shall be confidential and exempt from disclosure under section 9-340B 74-105, Idaho Code, except that any law enforcement officer or law enforcement agency, whether inside or outside the state of Idaho, may access the record system for the purpose of verifying current enhanced licensee status.

SECTION 19. That Section 19-1112, Idaho Code, be, and the same is hereby amended to read as follows:

19-1112. PROCEEDINGS TO BE SECRET. Every member of the grand jury must keep secret whatever he himself, or any other grand juror may have said, or in what manner he or any other grand juror may have voted on a matter before them; and such matters shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, but may, however, be required by any court to disclose the testimony of a witness examined before the grand jury, for the purpose of ascertaining whether it is consistent with that given by the witness before the court, or to disclose the testimony given before them by any person, upon a charge against such person for perjury in giving his testimony, or upon trial therefor.

SECTION 20. That Section 19-5514, Idaho Code, be, and the same is hereby amended to read as follows:

19-5514. LIMITATIONS ON DISCLOSURE OF INFORMATION. (1) All DNA profiles retained by the bureau of forensic services pursuant to this chapter shall be treated as confidential as provided by ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

(2) The DNA information shall be filed with the offender's file maintained by the Idaho state police.

(3) The DNA information shall not be included in the state summary criminal history information.

(4) The DNA information, and thumbprint impressions, shall be released only to law enforcement agencies, including, but not limited to, parole officers of the department of correction, hearing officers of the parole authority, and prosecuting attorneys' offices, at the request of the agency, except as specified in this chapter. Dissemination of this information to law enforcement agencies and prosecuting attorneys' offices outside the state shall be done in conformity with the provisions of this chapter.

(5) Any person who, by virtue of employment or official position, or any person contracting to carry out any function under this chapter, including any officers, employees and agents of such contractor who has possession of or access to individual identifiable DNA information contained in the state DNA database or databank and who willfully discloses such information in any manner to any person or agency not entitled to receive it is guilty of a misdemeanor.

(6) Furnishing DNA information or thumbprint comparison results to defense counsel for criminal defense purposes in compliance with discovery is not a violation of this section.

(7) It is not a violation of this section to disseminate statistical or research information obtained from the offender's file, the computerized databank system, or any of the bureau of forensic services' databases provided that the subject of the file is not identified and cannot be identified from the information disclosed. It is also not a violation of this section to include information obtained from a file in a transcript or record of a judicial proceeding or in any other public record when the inclusion of the information in the public record is authorized by a court, statute or case law.

SECTION 21. That Section 19-5801, Idaho Code, be, and the same is hereby amended to read as follows:

19-5801. DEFINITIONS. As used in this chapter:

(1) "Alternative Idaho mailing address" means the address of a law enforcement officer's employing entity.

(2) "Application" means a written form prescribed and made available by the Idaho peace officer standards and training council. Such application shall contain, at minimum, all of the following:

(a) A sworn statement by the law enforcement officer's employing entity that the applicant is in fact a law enforcement officer as defined in subsection (6) of this section;

(b) A sworn statement by the law enforcement officer that names such officer's residing household member(s), if any, as defined in subsection (11) of this section;

(c) The alternative Idaho mailing address as defined in subsection (1) of this section, and the telephone number or numbers where the law enforcement officer and such officer's residing household member(s) can be contacted by the public agency; and

(d) A sworn statement by the law enforcement officer that such officer knowingly and voluntarily designates his or her employing entity as agent for purposes of service of process and receipt of first class, certified or registered mail.

(3) "County detention officer" means an employee in a county jail who is responsible for the safety, care, protection and monitoring of county jail inmates.

(4) "Custodian" as defined in section 9-337 74-101, Idaho Code.

(5) "Federal officer" means a special agent or law enforcement officer who is a resident as defined in section 51-102, Idaho Code, employed by a federal agency and who is empowered to effect an arrest with or without a warrant for violations of the United States Code and who is authorized to carry firearms in the performance of duty.

(6) "Law enforcement officer" means any current federal officer, peace officer, parole officer, probation officer, correctional officer, county detention officer and any person who prosecutes criminal cases. The term "law enforcement officer" shall not include a person who holds an elected office.

(7) "Parole officer" means an employee of the Idaho department of correction who is charged with or whose duties include supervision of parolees.

(8) "Peace officer" means any employee of a police or law enforcement agency which is a part of or administered by the state or any political subdivision thereof and whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision. "Peace officer" also means an employee of a police or law enforcement agency of a federally recognized Indian tribe who has satisfactorily completed the peace officer standards and training academy and has been deputized by a sheriff of a county or a chief of police of a city of the state of Idaho.

(9) "Probation officer" means an employee of the Idaho department of correction or of the Idaho department of juvenile corrections who is charged with or whose duties include supervision of probationers.

(10) "Public agency" as is defined in section 9-337 74-101, Idaho Code.

(11) "Residing household member(s)" means a law enforcement officer's spouse and any child or children who currently reside at the same residential street address as such officer.

SECTION 22. That Section 19-5803, Idaho Code, be, and the same is hereby amended to read as follows:

19-5803. ADDRESS CONFIDENTIALITY -- ELIGIBILITY. (1) Law enforcement officers desiring that their Idaho residential street address and telephone number, and the Idaho residential street address and telephone number of their residing household member(s) be exempt from disclosure pursuant to this chapter and section 9-340C 74-106(30), Idaho Code, may submit an application and a fee, if any, to the custodian of the public record that contains such information. Upon receipt of an application and fee, the public agency shall comply with the provisions of this chapter for a period of four (4) years. Thereafter, law enforcement officers may renew the exemption by submitting a new application and fee, if any. The public agency may establish a fee schedule not to exceed the actual cost to the agency of complying with the provisions of this chapter.

(2) Law enforcement officers may submit an application to a public agency requesting that the public agency use an alternative Idaho mailing address rather than the Idaho residential street address of any such officer and of any such officer's residing household member(s) on all applications and on all identification cards, licenses, certificates, permits, tags and other similar documents that are issued to the officer or to such officer's residing household member(s) by the public agency. A public agency receiving such application shall comply with the request.

(3) A person shall cease to be eligible for an exemption under this chapter if such person ceases to be a law enforcement officer or a residing household member(s). Within thirty (30) days of such cessation, the person

shall notify, in writing, every public agency to which the person has made an application stating that he or she is no longer eligible for such exemption. If a law enforcement officer changes employment but is still eligible for an exemption under this chapter, such law enforcement officer shall, within thirty (30) days of changing employment, submit a new application to every public agency to which such officer has made an application.

(4) Nothing in this chapter shall prevent a public agency from obtaining the residential street address and telephone number of a law enforcement officer and of any residing household member(s). A law enforcement officer who has submitted an application pursuant to the provisions of this chapter shall provide his or her current Idaho residential street address to his or her employing entity.

SECTION 23. That Section 20-226, Idaho Code, be, and the same is hereby amended to read as follows:

20-226. RECORDS OF PRISONERS. The state board of correction shall cause a complete record to be kept of every prisoner committed to its custody. Such record shall be organized in accordance with the most modern method of filing and indexing so that there will always be immediately available a complete history on each prisoner. Such records shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 24. 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 the diversion process is utilized pursuant to this subsection, then statements made by a juvenile in a diversion proceeding shall be inadmissible at an adjudicative proceeding on the underlying charge as substantive evidence of guilt. 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) The court may dismiss the case upon an application by the juvenile offender if:

- (a) An informal adjustment has been granted and the juvenile offender has satisfied the terms or conditions of the informal adjustment;

(b) The court is convinced by the showing made that there is no longer cause for continuing the period of informal adjustment; and

(c) It be compatible with the public interest.

(4) 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 74-113, Idaho Code.

(5) 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 25. 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 center; or
- (f) Community-based diversion programs.

(5) The person in charge of a detention 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. 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 37, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 26. 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 juvenile 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~~ chapter 1, title 74, 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~~ chapter 1, title 74, Idaho Code.

(5) The victim of misconduct shall always be entitled to the name of the juvenile offender involved, the name of the juvenile 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 27. That Section 20-804, Idaho Code, be, and the same is hereby amended to read as follows:

20-804. AUTHORITY OF COUNTY OR CITY TO HOUSE PRISONERS IN A PRIVATE PRISON FACILITY. (1) A board of county commissioners or the governing body of a city may authorize the housing of specific minimum to medium security prisoners of the county or the city in a private prison facility pursuant to contract with the private prison contractor and subject to the review and approval of the prisoners by the department of correction. Provided, however, that in no event shall a board of county commissioners or the governing body of a city authorize, nor shall the department of correction approve, housing of any maximum or close custody prisoners, inmates imprisoned for sexual offenses or prisoners with a history or record of institutional violence involving the use of a deadly weapon, a history or record of committing any act of an assaultive nature that would qualify as a felony under the laws of the state of Idaho against any prisoner, employee or visitor while confined, or a history or record of escape or attempted escape from secure custody.

(2) A board of county commissioners may not contract with a private prison contractor in which a commissioner or an elected or appointed peace officer or other county official has an interest pursuant to ~~chapter 2, title 59~~ chapter 5, title 74, Idaho Code. The governing body of a city may not contract with a private prison contractor in which the mayor, a member of the city council, or any appointed peace officer or other city official has an interest pursuant to ~~chapter 2, title 59~~ chapter 5, title 74, Idaho Code. A contract made in violation of the provisions of this subsection is voidable.

SECTION 28. That Section 22-606, Idaho Code, be, and the same is hereby amended to read as follows:

22-606. FORMULAS. The department may require submission of the complete formula of any fertilizer and the source of all ingredients if it is deemed necessary for the registration of any fertilizer product or the administration of this chapter. Any formula so submitted is exempt from disclosure to the public pursuant to section 9-340D 74-107(1) or (2), Idaho Code.

SECTION 29. That Section 22-609, Idaho Code, be, and the same is hereby amended to read as follows:

22-609. TONNAGE REPORTS. (1) The registrant or tonnage-only distributor distributing or selling fertilizer to a nonregistrant or consumer shall furnish to the department a report showing the amount (in tons) of each grade of fertilizer, and the form in which the fertilizer was distributed (dry or liquid). In the case of fertilizer sold to an intermediate distributor, the registrant, tonnage-only distributor, or distributor shall list the name, address, telephone number, and amount (in tons) of each fertilizer product sold to each intermediate distributor.

(2) Information furnished to the department under this section is exempt from disclosure under section ~~9-340D~~ 74-107(1) or (2), Idaho Code, if the disclosure would divulge the operation of any person.

SECTION 30. That Section 22-1215, Idaho Code, be, and the same is hereby amended to read as follows:

22-1215. ACCESS TO RECORDS. All papers, records, correspondence, communications and proceedings of the Idaho potato commission shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 31. That Section 22-2206, Idaho Code, be, and the same is hereby amended to read as follows:

22-2206. SUBMISSION OF FORMULAS. The department may require submission of the complete formula of any soil amendment or plant amendment and the source(s) of all ingredients if it is deemed necessary for the registration of any soil amendment or plant amendment product or administration of this chapter. Any formula so submitted is exempt from disclosure to the public pursuant to section ~~9-340D~~ 74-107(1) or (2), Idaho Code.

SECTION 32. That Section 22-2209, Idaho Code, be, and the same is hereby amended to read as follows:

22-2209. TONNAGE REPORTS -- REQUIRED. (1) The registrant distributing or selling soil amendments or plant amendments to a nonregistrant or consumer shall furnish to the department a report showing the amounts in tons of each registered brand of plant amendment and soil amendment, and the form in which the plant amendment and soil amendment was distributed, dry or liquid. In the case of soil amendments or plant amendments distributed to an intermediate distributor, the registrant or distributor shall list the current name, address, telephone number, and amount in tons of each soil amendment and plant amendment product distributed to each intermediate distributor.

(2) Information furnished to the department under this section is exempt from disclosure under section ~~9-340D~~ 74-107(1) or (2), Idaho Code, if the disclosure would divulge the operation of any person.

SECTION 33. That Section 22-2718, Idaho Code, be, and the same is hereby amended to read as follows:

22-2718. IDAHO STATE SOIL AND WATER CONSERVATION COMMISSION. (1) There is hereby established and created in the department of agriculture of the state of Idaho the Idaho state soil and water conservation commission which shall perform all functions conferred upon it by this chapter and shall be a nonregulatory agency. The commission shall consist of five (5) members appointed by the governor. In appointing commission members, the governor shall give consideration to geographic representation. Commission members shall be chosen with due regard to their demonstrated expertise including,



but not limited to, knowledge of and interest in water quality and other natural resource issues, production agriculture, banking or other similar financial experience or experience as a county commissioner. The soil and water conservation districts may submit to the governor a list of up to three (3) names for each vacancy on the commission and the governor may, in his discretion, consider any such submission in the appointment of commission members. The term of office of each commission member shall be five (5) years; except that upon July 1, 2010, the governor shall appoint one (1) member for a term of one (1) year, one (1) member for a term of two (2) years, one (1) member for a term of three (3) years, one (1) member for a term of four (4) years and one (1) member for a term of five (5) years. From and after the initial appointment the governor shall appoint a member of the commission to serve in office for a term of five (5) years commencing upon July 1 of that year. A vacancy which occurs in an unexpired term shall be filled for its remainder by the governor's appointment. Each vacancy on the commission shall be filled by appointment by the governor. Such appointments shall be confirmed by the senate. Commission members shall serve at the pleasure of the governor. The commission may invite the state conservationist of the United States department of agriculture natural resources conservation service, a representative from a district or districts and the dean of the college of agriculture of the university of Idaho or his designated representative, or any other person or entity as the commission deems appropriate, to serve as nonvoting advisory members of the commission. The commission shall keep a record of its official actions, shall adopt a seal, which seal shall be judicially noticed, and may perform such acts, hold such public hearings and promulgate such rules as may be necessary for the execution of its functions under this chapter.

(2) The state soil and water conservation commission shall appoint the administrator of the state soil and water conservation commission. The state soil and water conservation commission may employ such technical experts and such other agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. The commission may call upon the attorney general of the state for such legal services as it may require. It shall have authority to delegate to its chairman, to one (1) or more of its members, or to one (1) or more agents or employees, such powers and duties as it may deem proper. The commission may establish offices, incur expenses, enter into contracts and acquire services and personal property as may be reasonable for the proper administration and enforcement of this chapter. Upon request of the commission, for the purpose of carrying out any of its functions, the supervising officer of any state agency, or of any state institution of learning, shall insofar as may be possible under available appropriation, and having due regard to the needs of the agency to which the request is directed, assign or detail to the commission members of the staff or personnel of such agency or institution of learning, and make such special reports, surveys or studies as the commission may request.

(3) The commission shall designate its chairman, and may from time to time, change such designation. A majority of the commission shall constitute a quorum and the concurrency of a majority in any matter within their duties shall be required for its determination. The chairman and members of the commission shall be compensated as provided by section 59-509(h), Idaho Code. The commission shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements.

(4) In addition to the duties and powers hereinafter conferred upon the state soil and water conservation commission, it shall have the following responsibilities:

(a) To offer such assistance as may be appropriate to the supervisors of soil conservation districts in the carrying out of any of their powers and programs.

(b) To keep the supervisors of each of the several soil conservation districts informed of the activities and experience of all other soil conservation districts and to facilitate an interchange of advice and experience between such districts and cooperation between them.

(c) To coordinate the progress of the several soil conservation districts so far as this may be done by advice and consultation.

(d) To secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this state, in the work of such districts.

(e) To disseminate information throughout the state concerning the activities and programs of the soil conservation districts in areas where their organization is desirable.

(f) To provide for the establishment and encouragement of the "Idaho OnePlan" as a primary computer-based conservation planning process for all natural resource concerns. Establishment and encouragement will be accomplished through an executive group and steering committee both containing private, state and federal representation. The information provided by those using the "Idaho OnePlan" shall be deemed to be trade secrets, production records or other proprietary information and shall be kept confidential and shall be exempt from disclosure pursuant to section 9-340D 74-107, Idaho Code.

(5) In addition to other powers, functions and duties of soil conservation districts and the state soil and water conservation commission provided in this chapter, the commission shall have the following additional powers, functions and duties:

(a) The commission shall conduct, in cooperation with appropriate federal and state agencies and the owners and operators of privately owned forest lands, rangelands and agricultural lands in this state, conservation improvements on or in respect to these lands for the purposes of implementing conservation systems to conserve and improve natural resource conditions;

(b) The commission shall assist and advise soil conservation districts and other entities in implementing the conservation improvements, projects and the water quality program for agriculture. To the extent that there are available general funds, the commission shall provide for grants and cost-share opportunities and, as legislatively designated, utilize the resource conservation and rangeland development fund for loans for conservation improvements. Provided however, that the commission shall determine whether general or resource conservation and rangeland development funds are available before approving any conservation improvements, projects and cost-share opportunities and, after having made such determination, shall enter into the necessary contracts for implementation;

(c) The commission shall be the agency responsible for the administration of funds accruing to the resource conservation and rangeland development fund and for all general funds appropriated as a separate and distinct action of the legislature to implement the powers, functions and duties of soil conservation districts and the commission;

(d) On or before March 1 of each year, the commission shall report to the senate agricultural affairs committee and the house agricultural affairs committee; and

(e) The commission shall promulgate such rules as are necessary to carry out the purposes of this chapter.

SECTION 34. 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 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 at all times and to the public as set forth in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 35. That Section 22-4909A, Idaho Code, be, and the same is hereby amended to read as follows:

22-4909A. EFFECT OF FEDERAL ENVIRONMENTAL PROTECTION AGENCY ENFORCEMENT ACTION. The Idaho department of agriculture shall have authority to administer all laws to protect the quality of water within the confines of a beef cattle animal feeding operation that is not under permit issued by the federal environmental protection agency. In addition, the nutrient management plan, and all information generated by the beef cattle feeding operation as a result of such plan, shall be deemed to be trade secrets, production records or other proprietary information, shall be kept confiden-

tial and shall be exempt from disclosure pursuant to section 9-340D ~~74-107~~, Idaho Code. In any case in which the United States environmental protection agency initiates an enforcement action regarding an alleged noncompliance at a beef cattle animal feeding operation, any pending administrative or civil enforcement action initiated by the director regarding the same alleged noncompliance shall be deemed void. If a compliance order addressing the alleged noncompliance has already been issued by the director, that order shall remain in full force and effect.

SECTION 36. That Section 22-5119, Idaho Code, be, and the same is hereby amended to read as follows:

22-5119. CONFIDENTIAL AND PROTECTED RECORDS. Records required by the department to validate the collection and remittance of assessments, including, but not limited to, production summaries, receiving records, conditioning reports, records relating to the payment of seed crops and seed indemnity fund reporting forms of a seed buyer, and financial records that may be required pursuant to section 22-5113(4), Idaho Code, shall be held confidential and will be protected as production records according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. These records shall not be subject to disclosure unless specifically authorized in writing by the licensee or as otherwise authorized pursuant to the provisions of ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 37. That Section 23-515, Idaho Code, be, and the same is hereby amended to read as follows:

23-515. INSPECTION AND EXAMINATION OF RECORDS OF PERMITS AND SALES. The records of the division with respect to permits and sales thereunder shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 38. That Section 25-207B, Idaho Code, be, and the same is hereby amended to read as follows:

25-207B. IDENTIFICATION OF LIVESTOCK, POULTRY OR FISH -- RULES FOR DISEASE CONTROL. (1) In order to provide for disease control and increase the traceability of infected or exposed animals or fish, the division of animal industries, in cooperation with the state brand board, is authorized to promulgate rules for the identification of livestock, poultry or fish and the registration of premises where such animals or fish are held.

(2) All data and information collected by the division of animal industries or the state brand board pursuant to the provisions of this section, or rules promulgated hereunder, shall not be considered a public record and shall be exempt from public disclosure requirements as provided in section 9-340D ~~74-107~~, Idaho Code.

SECTION 39. That Section 25-2714, Idaho Code, be, and the same is hereby amended to read as follows:

25-2714. PUBLICATIONS. The director shall publish at least annually, in such forms as he may deem proper, information concerning the sales of commercial feeds, together with such data on their production and use as he may consider advisable, and a report of the results of the analyses of official samples of commercial feeds sold within the state as compared with the analyses guaranteed in the registration and on the label; provided, however, that the information concerning production and use of commercial feeds shall not disclose the operations of any person and the information shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 40. That Section 25-3806, Idaho Code, be, and the same is hereby amended to read as follows:

25-3806. INSPECTIONS -- RECORDS CONFIDENTIAL. The director or his designee is authorized to enter and inspect any agricultural operation and have access to or copy any facility records deemed necessary to ensure compliance with the provisions of this chapter or required odor management plans. Prior to conducting an investigation, the department shall notify the board of county commissioners for the county in which the agricultural operation is located and the board of county commissioners may have a designee accompany the director or his designee during the inspection. All records copied or obtained by the director or his designee as a result of an inspection pursuant to this section shall be confidential private records and shall be exempt from disclosure under ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, except:

- (1) Records otherwise deemed to be public records not exempt from disclosure pursuant to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code; and
- (2) Inspection reports, determinations of compliance or noncompliance and all other records created by the director or his designee pursuant to this section.

SECTION 41. That Section 25-3807, Idaho Code, be, and the same is hereby amended to read as follows:

25-3807. COMPLAINTS. The department shall respond to all odor complaints lodged against agriculture operations. A complaint must include the name, address and telephone number of the complainant. The response of the department may be limited to informing the complainant that an odor plan is being implemented. Complaints pursuant to this section are a public record open to public inspection and copying pursuant to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 42. That Section 26-1111, Idaho Code, be, and the same is hereby amended to read as follows:

26-1111. RECORDS NOT PUBLIC. (1) The department of finance shall keep proper books and records of all regulatory acts, matters and things done by it under the provisions of chapters 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 18, 21, 26, 32, 33, 34, 35, 36 and 37, title 26, Idaho Code, as records of its office, but the same shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, except as otherwise provided in this section and in sections 26-1112 and 67-2743E, Idaho Code.

(2) All written communications and copies thereof, between the department, the director, department employees and any bank, bank holding company, trust company, savings and loan association and credit union which relate in any manner to the examination or condition of the financial institution, are the property of the department of finance and, if acquired by any person, shall be returned to the department upon written demand.

(3) (a) The director of the department of finance, any federal bank or other financial institution regulatory or supervisory agency, and any bank, bank holding company, trust company, savings and loan association, or credit union incorporated or chartered under title 26, Idaho Code, or under federal law or the law of any state and doing business in the state of Idaho, shall each have a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications, and the contents of any documents relating to any confidential communications, between the financial institution and the department of finance or federal bank or financial institution regulatory or supervisory agency made during the regulatory relationship.

(b) A communication is confidential if it is made during the regulatory relationship between the department of finance or the federal bank or other financial institution regulatory or supervisory agency and any such bank, bank holding company, trust company, savings and loan association or credit union, and if the communication is not designed or intended for disclosure to any other parties.

(c) The privilege may be claimed by the financial institution or by the department of finance or the federal bank or other financial institution regulatory or supervisory agency, or by the lawyer for either. The privilege may be waived only in accordance with this section and sections 26-1112 and 67-2743E, Idaho Code.

(d) The director of the department of finance or the appropriate officer or employee of the federal bank or other financial institution regulatory or supervisory agency may disclose confidential communications between the department or agency and financial institutions to the court, in camera, in a civil action. Such disclosure shall also be a privileged communication and the privilege may be claimed by the director, officer or employee or his lawyer.

(e) No sanction may be imposed upon any financial institution as a result of the claim of a privilege by the financial institution or the director of the department of finance or the officer or employee of the federal supervisory agency under this section.

SECTION 43. That Section 26-1112, Idaho Code, be, and the same is hereby amended to read as follows:

26-1112. PENALTY FOR DISCLOSURE OF CONFIDENTIAL INFORMATION. (1) Neither the department of finance, its director nor its employees shall disclose to any person or agency any fact or information obtained in the course of business of the department under this act, except in the following cases:

(a) When by the terms of this act or ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, it is made the duty of the department to make public records and publish the same.

(b) When the department is required by law to take special action regarding the affairs of any bank.

(c) When called as a witness in any criminal proceeding in a court of competent jurisdiction, provided that the court must review such information in chambers to determine the necessity of disclosing such information, and subject to the privilege provided by subsection (3) of section 26-1111, Idaho Code.

(d) When, in the case of a problem bank, it is necessary or advisable, in the discretion of the director, for the good of the public or of the depositors.

(e) When, in the discretion of the department, it is advisable to disclose any such information to a state or federal bank supervisory agency.

(2) Any person violating the provisions of this section shall be guilty of a felony and conviction shall subject the offender to a forfeiture of his office or employment.

SECTION 44. That Section 26-2610, Idaho Code, be, and the same is hereby amended to read as follows:

26-2610. COOPERATIVE AGREEMENTS. (1) The director is authorized to enter into cooperative and reciprocal agreements with other financial institution regulatory agencies, both federal and state, and from bank supervisory authorities from foreign countries, to facilitate the regulation of financial institutions and financial institution holding companies doing business in this state. The director may accept reports of examinations and other records from such other agencies in lieu of conducting his own

examinations of financial institutions controlled by financial institution holding companies located in other states. The director may share examination reports with such other agencies. The director may examine such institutions in Idaho, in the financial institution's home state or such other location as may be necessary. The director may take any action jointly with other regulatory agencies having concurrent jurisdiction over financial institutions and financial institution holding companies doing business in this state or may take such actions independently in order to carry out his responsibilities.

(2) The director may, in his discretion, enter into agreements with a professional association of which the department is a member. The purposes of such agreements may include the facilitation of examination of banks or bank holding companies operating in other states in addition to Idaho. Notwithstanding any other provision of law, such examination agreements may provide for the exchange of bank information, including examination reports, with such a professional association; provided however, that such communication shall not constitute a public disclosure of such records under ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, nor a waiver of the statutory privilege in section 26-1111, Idaho Code.

SECTION 45. That Section 26-2916, Idaho Code, be, and the same is hereby amended to read as follows:

26-2916. CONFIDENTIALITY OF DATA SUBMITTED TO THE DIRECTOR. (1) All information or reports obtained by the director from an applicant, licensee or authorized representative, whether obtained through reports, applications, examinations, audits, investigation, or otherwise including, but not limited to:

(a) All information contained in or related to examination, investigation, operating, or condition reports reported by, on behalf of, or for the use of the director; or

(b) Financial statements, balance sheets, or authorized representative information;

are confidential trade secrets and may not be disclosed or distributed outside the department in accordance with the provisions of ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, by the director or any officer or employee of the department.

(2) The director, however, may provide for the release of information to representatives of state or federal agencies who state in writing that they shall maintain the confidentiality of such information or if the director finds that the release is reasonably necessary for the protection of the public and in the interests of justice.

(3) Nothing in this section shall prohibit the director from releasing to the public a list of persons licensed under the provisions of this chapter or to release aggregated financial data on such licensees.

SECTION 46. That Section 26-31-103, Idaho Code, be, and the same is hereby amended to read as follows:

26-31-103. DIRECTOR'S AUTHORITY UNDER THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY. (1) The legislature has determined that a nationwide mortgage licensing system and registry for mortgage brokers, mortgage lenders and mortgage loan originators is consistent with both the public interest and the purposes of this chapter.

(2) For the sole purpose of participating in the nationwide mortgage licensing system and registry, the director is authorized to:

(a) Modify by rule the license renewal dates under this chapter;

(b) Establish by rule such new requirements as are necessary for the state of Idaho to participate in the nationwide mortgage licensing sys-

tem and registry upon the director's finding that each new requirement is consistent with both the public interest and the purposes of this chapter; and

(c) Require a background investigation of each applicant and each control person of an applicant for a mortgage broker, mortgage lender or mortgage loan originator license by means of fingerprint checks by the Idaho state police and the FBI for state and national criminal history record checks. The information obtained thereby may be used by the director to determine the applicant's eligibility for licensing under this chapter. The fee required to perform the criminal history record check shall be borne by the license applicant. Information obtained or held by the director pursuant to this subsection shall be considered confidential personal information and shall be exempt from disclosure pursuant to section ~~9-340C~~ 74-106(8) and (9), Idaho Code.

SECTION 47. That Section 26-31-315, Idaho Code, be, and the same is hereby amended to read as follows:

26-31-315. CONFIDENTIALITY. In order to promote effective regulation and reduce regulatory burden through supervisory information sharing:

(1) Except as otherwise provided in section 1512, P.L. 110-289, the requirements under any federal law or ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, regarding the privacy or confidentiality of any information or material provided to the NMLSR, and any privilege arising under federal or Idaho state law, including the rules of any federal or Idaho state court, with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to the NMLSR. Such information and material may be shared with all state and federal regulatory officials having mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal law or ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

(2) For these purposes, the director is authorized to enter into agreements or sharing arrangements with other governmental agencies, the conference of state bank supervisors, the American association of residential mortgage regulators or other associations representing governmental agencies as established by rule or order of the director.

(3) Information or material that is subject to a privilege or confidentiality under subsection (1) of this section shall not be subject to:

(a) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or the respective state; or

(b) Subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the NMLSR with respect to such information or material, the person to whom such information or material pertains waives, in whole or in part, in the discretion of such person, that privilege.

(4) Coordination with ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, relating to the disclosure of confidential supervisory information or any information or material described in subsection (1) of this section that is inconsistent with subsection (1) shall be superseded by the requirements of this section.

(5) This section shall not apply with respect to the information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators that is included in the NMLSR for access by the public.

SECTION 48. That Section 28-46-106, Idaho Code, be, and the same is hereby amended to read as follows:



28-46-106. INVESTIGATORY POWERS. (1) If the administrator has cause to believe that a person has engaged in conduct or committed an act that is subject to action by the administrator, he may make an investigation to determine whether the person has engaged in the conduct or committed the act. To the extent necessary for this purpose, he may administer oaths or affirmations, and, upon his own motion or upon request of any party, subpoena witnesses, compel their attendance, adduce evidence, and require the production of, or testimony as to, any matter relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of admissible evidence.

(2) If the person's records are located outside this state, the person at his option shall make them available to the administrator at a convenient location within this state or pay the reasonable and necessary expenses for the administrator or his representative to examine them where they are located. The administrator may designate representatives, including comparable officials of the state in which the records are located, to inspect them on his behalf.

(3) Upon application by the administrator showing failure without lawful excuse to obey a subpoena or to give testimony, and upon reasonable notice to all persons affected thereby, the court shall grant an order compelling compliance.

(4) The name or identity of a person whose acts or conduct the administrator investigates pursuant to this section or the facts disclosed in the investigation shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, but this subsection does not apply to disclosures in actions or enforcement proceedings pursuant to this act.

SECTION 49. That Section 28-46-304, Idaho Code, be, and the same is hereby amended to read as follows:

28-46-304. RECORDS -- ANNUAL REPORTS. (1) Every regulated lender shall maintain records in conformity with generally accepted accounting principles and practices in a manner that will enable the administrator to determine whether the regulated lender is complying with the provisions of this act. The recordkeeping system of a regulated lender shall be sufficient if he makes the required information reasonably available. The records need not be kept in the place of business where regulated consumer loans are made, if the administrator is given free access to the records wherever located. The records pertaining to any loan need not be preserved for more than two (2) years after making the final entry relating to the loan, but in the case of an open-end account, the two (2) years is measured from the date of each entry.

(2) Concurrent with license renewal, on or before May 31 of each year, every licensee shall file with the administrator a composite annual report for the prior calendar year in the form prescribed by the administrator relating to all regulated consumer loans made by him. Information contained in annual reports shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, and may be published only in composite form.

SECTION 50. That Section 28-46-409, Idaho Code, be, and the same is hereby amended to read as follows:

28-46-409. RECORDS -- ANNUAL REPORTS. (1) Every licensee shall maintain records in conformity with generally accepted accounting principles and practices in a manner that will enable the administrator to determine whether the licensee is complying with the provisions of this act. The recordkeeping system of a licensee shall be sufficient if he makes the required information reasonably available. The records need not be kept in

the place of business where payday loans are made if the administrator is given free access to the records wherever located. The records pertaining to any loan need not be preserved for more than two (2) years after the due date of the loan.

(2) On or before May 31 of each year, every licensee shall file with the administrator a composite annual report for the prior calendar year in the form prescribed by the administrator relating to all payday loans made by him. Information contained in annual reports shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, and may be published only in composite form.

SECTION 51. That Section 28-51-104, Idaho Code, be, and the same is hereby amended to read as follows:

28-51-104. DEFINITIONS. For purposes of sections 28-51-104 through 28-51-107, Idaho Code:

(1) "Agency" means any "public agency" as defined in section ~~9-337 74-101~~, Idaho Code.

(2) "Breach of the security of the system" means the illegal acquisition of unencrypted computerized data that materially compromises the security, confidentiality, or integrity of personal information for one (1) or more persons maintained by an agency, individual or a commercial entity. Good faith acquisition of personal information by an employee or agent of an agency, individual or a commercial entity for the purposes of the agency, individual or the commercial entity is not a breach of the security of the system, provided that the personal information is not used or subject to further unauthorized disclosure.

(3) "Commercial entity" includes corporation, business trust, estate, trust, partnership, limited partnership, limited liability partnership, limited liability company, association, organization, joint venture and any other legal entity, whether for profit or not-for-profit.

(4) "Notice" means:

(a) Written notice to the most recent address the agency, individual or commercial entity has in its records;

(b) Telephonic notice;

(c) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 U.S.C. section 7001; or

(d) Substitute notice, if the agency, individual or the commercial entity required to provide notice demonstrates that the cost of providing notice will exceed twenty-five thousand dollars (\$25,000), or that the number of Idaho residents to be notified exceeds fifty thousand (50,000), or that the agency, individual or the commercial entity does not have sufficient contact information to provide notice. Substitute notice consists of all of the following:

(i) E-mail notice if the agency, individual or the commercial entity has e-mail addresses for the affected Idaho residents; and

(ii) Conspicuous posting of the notice on the website page of the agency, individual or the commercial entity if the agency, individual or the commercial entity maintains one; and

(iii) Notice to major statewide media.

(5) "Personal information" means an Idaho resident's first name or first initial and last name in combination with any one (1) or more of the following data elements that relate to the resident, when either the name or the data elements are not encrypted:

(a) Social security number;

(b) Driver's license number or Idaho identification card number; or

(c) Account number, or credit or debit card number, in combination with any required security code, access code, or password that would permit access to a resident's financial account.

The term "personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records or widely distributed media.

(6) "Primary regulator" of a commercial entity or individual licensed or chartered by the United States is that commercial entity's or individual's primary federal regulator, the primary regulator of a commercial entity or individual licensed by the department of finance is the department of finance, the primary regulator of a commercial entity or individual licensed by the department of insurance is the department of insurance and, for all agencies and all other commercial entities or individuals, the primary regulator is the attorney general.

SECTION 52. That Section 30-14-607, Idaho Code, be, and the same is hereby amended to read as follows:

30-14-607. PUBLIC RECORDS -- CONFIDENTIALITY. (a) Presumption of public records. Except as otherwise provided in subsection (b) of this section, records obtained by the administrator or filed under this chapter, including a record contained in or filed with a registration statement, application, notice filing, or report, are public records and are available for public examination.

(b) Nonpublic records. Records as set forth in section 9-340H 74-111, Idaho Code, are not public records and are not available for public examination under subsection (a) of this section.

(c) Administrator discretion to disclose. If disclosure is for the purpose of a civil, administrative, or criminal investigation, action, or proceeding or to a person specified in section 30-14-608(a), Idaho Code, the administrator may disclose a record obtained in connection with an audit or inspection under section 30-14-411(d), Idaho Code, or a record obtained in connection with an investigation under section 30-14-602, Idaho Code.

SECTION 53. That Section 31-874, Idaho Code, be, and the same is hereby amended to read as follows:

31-874. PROCEEDINGS AND RECORDS OF MEDICAL INDIGENTS. All proceedings and records related to medical indigency pursuant to the provisions of section 31-873, Idaho Code, and chapters 34 and 35, title 31, Idaho Code, shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, and shall not be subject to the provisions of ~~sections 67-2340 through 67-2347~~ chapter 2, title 74, Idaho Code.

SECTION 54. That Section 31-1415, Idaho Code, be, and the same is hereby amended to read as follows:

31-1415. ORGANIZATION OF BOARD -- MEETINGS -- OFFICERS -- OFFICIAL BONDS. Immediately after qualifying, the board of fire protection commissioners shall meet and organize as a board, and at that time, and whenever thereafter vacancies in the respective offices may occur, they shall elect a president from their number, and shall appoint a secretary and treasurer who may also be from their number, all of whom shall hold office during the pleasure of the board, or for terms fixed by the board. The offices of secretary and treasurer may be filled by the same person. Certified copies of all such appointments, under the hand of each of the commissioners, shall be forthwith filed with the clerk of the board of county commissioners and with the tax collector of the county.

As soon as practicable after the organization of the first board of fire protection commissioners, and thereafter when deemed expedient or necessary, such board shall designate a day and hour on which regular meetings shall be held and a place for the holding thereof, which shall be within the district. Regular meetings shall be held at least quarterly. The minutes of all meetings must show what bills are submitted, considered, allowed or rejected. The secretary shall make a list of all bills presented, showing to whom payable, for what service or material, when and where used, amount claimed, allowed or disallowed. Such list shall be acted on by the board. All meetings of the board must be public, and a majority shall constitute a quorum for the transaction of business. All fire protection districts shall meet the financial audit filing requirements as provided in section 67-450B, Idaho Code. All meetings of fire protection boards shall be noticed and run in accordance with the open meeting law provided for in ~~sections 67-2340 through 67-2347~~ chapter 2, title 74, Idaho Code, inclusive. All records of fire protection districts shall be available to the public in accordance with the provisions of public records law as provided for in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

The officers of the district shall take and file with the secretary, an oath for faithful performance of the duties of the respective offices. The treasurer shall on his appointment execute and file with the secretary an official bond in compliance with section 41-2604, Idaho Code, in such an amount as may be fixed by the fire protection board but in no case less than ten thousand dollars (\$10,000).

SECTION 55. That Section 31-3418, Idaho Code, be, and the same is hereby amended to read as follows:

31-3418. CONFIDENTIALITY -- PROCEEDINGS AND RECORDS OF INDIGENTS. All proceedings and records related to indigency, pursuant to chapter 34, title 31, Idaho Code, shall be exempt from disclosure pursuant to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 56. That Section 31-3551, Idaho Code, be, and the same is hereby amended to read as follows:

31-3551. ADVISORY PANEL FOR PRELITIGATION CONSIDERATION OF INDIGENT RESOURCE ELIGIBILITY CLAIMS -- PROCEDURE. The counties in the state of Idaho and the health providers furnishing care to eligible medically indigent persons, as defined in section 31-3502, Idaho Code, are directed to cooperate in providing an advisory panel in the nature of a special civil grand jury and procedure for prelitigation consideration of claims arising out of contested resource availability of persons applying for indigent relief under the provisions of chapter 35, title 31, Idaho Code, which proceedings shall be informal and nonbinding, but nevertheless compulsory as a condition precedent to litigation. Proceedings conducted or maintained under the authority of this chapter shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. Formal rules of evidence shall not apply and all such proceedings shall be expeditious and informal. The panel, thus created, will render opinions where the resource eligibility of applicants, as herein described, has been contested.

SECTION 57. That Section 31-4814, Idaho Code, be, and the same is hereby amended to read as follows:

31-4814. CONFIDENTIAL AND PROPRIETARY DATA. All data submitted to governing boards by wireless carriers deemed by such carriers as confidential and proprietary shall be deemed to be trade secrets pursuant to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 58. That Section 31-4904, Idaho Code, be, and the same is hereby amended to read as follows:

31-4904. DISTRICT BOARD -- QUORUM -- MEETINGS. A district shall be governed by a board of directors consisting of not less than three (3) members, hereinafter referred to as the district board, which shall be vested with the authority, control and supervision of the district. The district board shall consist of one (1) commissioner from each participating county, appointed by the commissioners of the participating county. If the district includes only two (2) counties, the commissioners of the two (2) participating counties shall jointly appoint a third member of the district board. Ex officio, nonvoting members may be appointed by the district board. The district board shall designate one (1) of its members as president, shall appoint a treasurer, who need not be a member of the district board, and shall establish such other officers as it deems necessary. The district board shall adopt bylaws for its own operation and establish such regular meeting dates and times as it shall deem necessary. A majority of the voting members of the district board shall constitute a quorum, and a majority of the quorum present shall be sufficient to take any action. A member of the district board shall serve for a two (2) year term and may be reappointed by the commissioners appointing such member. Any member may be removed by the commissioners who originally appointed such member, at any time and for any reason. Any vacancy shall be filled by the original appointing commissioners. Members of a district board shall serve without compensation, but may be reimbursed for their actual expenses incurred in attending board meetings or conducting other district business under such rules as the district board may adopt. Regular and special meetings of a district board shall be conducted in compliance with ~~sections 67-2340 through 67-2347~~ chapter 2, title 74, Idaho Code.

SECTION 59. That Section 31-5104, Idaho Code, be, and the same is hereby amended to read as follows:

31-5104. STUDY COMMISSION -- ORGANIZATION -- MEETINGS -- CONDUCT OF BUSINESS. (1) The commission shall meet within thirty (30) days of its appointment and shall organize by electing from its members a chairman, a vice-chairman, and a clerk-secretary.

(2) Meetings of the study commission shall be held upon the call of the chairman, the vice-chairman in the absence or inability of the chairman, or a majority of the members. A majority of the members of the study commission constitutes a quorum for the transaction of business.

(3) All meetings, hearings and deliberations of the commission shall be subject to the provisions of ~~sections 67-2340 through 67-2347~~ chapter 2, title 74, Idaho Code.

(4) The commission may prepare a proposed budget for its operation which shall be submitted to the governing body for approval.

(5) The commission may adopt rules governing its own organization and procedure.

(6) The commission shall keep written records of its proceedings and appropriate financial records. All such records shall be open for public inspection at the offices of the study commission during regular office hours.

(7) Subject to the approval of the governing body, the commission may employ and fix the compensation and duties of necessary research, clerical, legal and other staff.

(8) Upon the request of the chairman of the study commission, the officers and employees of state agencies, other counties and other units of local government shall furnish or make available to the commission such information as may be necessary for carrying out the commission's function.

(9) The commission may apply for and accept available private, state and federal funds and may accept donations from any source.

(10) A study commission may establish advisory boards and committees, including on them persons who are not members of the study commission.

(11) The governing body shall provide the commission with suitable space and access to county facilities for holding public hearings, may contribute clerical and other assistance to the commission, and shall provide the members and staff of the commission with information and assistance necessary to conduct a complete study of county government.

SECTION 60. That Section 33-357, Idaho Code, be, and the same is hereby amended to read as follows:

33-357. CREATION OF INTERNET BASED EXPENDITURE WEBSITE. (1) As used in this section, unless otherwise required:

(a) "Education provider" means:

(i) A school district, including a specially chartered district organized and existing pursuant to law;

(ii) A cooperative services agency or intermediate school district;

(iii) A public charter school authorized pursuant to state law;

(iv) A publicly funded governmental entity established by the state for the express purpose of providing online courses.

(b) "Entity" means a corporation, association, union, limited liability company, limited liability partnership, grantee, contractor, local government or other legal entity, including a nonprofit corporation or an employee of the education provider.

(c) "Public record" shall have the same meaning as set forth in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

(2) (a) No later than December 1, 2011, each education provider shall develop and maintain a publicly available website where the education provider's expenditures are posted in a nonsearchable PDF format, a searchable PDF format, a spreadsheet or in a database format.

(b) The internet based website shall include the following data concerning all expenditures made by the education provider:

(i) The name and location or address of the entity receiving moneys;

(ii) The amount of expended moneys;

(iii) The date of the expenditure;

(iv) A description of the purpose of the expenditure, unless the expenditure is self-describing;

(v) Supporting contracts and performance reports upon which the expenditure is related when these documents already exist;

(vi) To the extent possible, a unique identifier for each expenditure;

(vii) The annual budget approved by the education provider's governing board, to be posted within thirty (30) days after its approval; and

(viii) Any current master labor agreements approved by the education provider's governing board.

(c) The expenditure data shall be provided in an open structured data format that may be downloaded by the user.

(d) The internet based website shall contain only information that is a public record or that is not confidential or otherwise exempt from public disclosure pursuant to state or federal law.

(3) The education provider shall:

(a) Update the expenditures contained on the internet based website at least monthly;

- (b) Archive all expenditures, which shall remain accessible and on the internet based website for a number of years, consistent with state law regarding keeping and retention of records;
- (c) Make the internet based website easily accessible from the main page of the education provider's website; and
- (d) The website shall include those records beginning on the effective date of this act on July 1, 2011, and all data prior to that date shall be available by way of a public records request.

SECTION 61. That Section 33-510, Idaho Code, be, and the same is hereby amended to read as follows:

33-510. ANNUAL MEETINGS -- REGULAR MEETINGS -- BOARDS OF TRUSTEES. The annual meeting of each school district shall be on the date of its regular July meeting in each year. Notice of the annual meeting of elementary school districts shall be given as provided in section 33-402, Idaho Code, but one (1) publication shall suffice.

Regular meetings of each board of school district trustees shall be held monthly, on a uniform day of a uniform week as determined at the annual meeting. Special meetings may be called by the chairman or by any two (2) members of the board and held at any time. If the time and place of special meetings shall not have been determined at a meeting of the board with all members being present, then notice of the time and place shall be given to each member and announced by written notice conspicuously posted at the school district office and at least two (2) or more public buildings within the school district not less than twenty-four (24) hours before such special meeting is to be convened.

A quorum for the transaction of business of the board of trustees shall consist of a majority of the members of the board. Unless otherwise provided by law, all questions shall be determined by a majority of the vote cast. The chairman of the board may vote in all cases.

All meetings shall conform to the provisions of ~~section 67-2340 through section 67-2345~~ chapter 2, title 74, Idaho Code.

SECTION 62. That Section 33-514, Idaho Code, be, and the same is hereby amended to read as follows:

33-514. ISSUANCE OF ANNUAL CONTRACTS -- SUPPORT PROGRAMS -- CATEGORIES OF CONTRACTS -- OPTIONAL PLACEMENT. (1) The board of trustees shall establish criteria and procedures for the supervision and evaluation of certificated employees who are not employed on a renewable contract, as provided for in section 33-515, Idaho Code.

(2) There shall be three (3) categories of annual contracts available to local school districts under which to employ certificated personnel:

(a) A category 1 contract is a limited one-year contract as provided in section 33-514A, Idaho Code.

(b) A category 2 contract is for certificated personnel in the first and second years of continuous employment with the same school district. Upon the decision by a local school board not to reemploy the person for the following year, the certificated employee shall be provided a written statement of reasons for non-reemployment by no later than May 25. No property rights shall attach to a category 2 contract and therefore the employee shall not be entitled to a review by the local board of the reasons or decision not to reemploy.

(c) A category 3 contract is for certificated personnel during the third year of continuous employment by the same school district. District procedures shall require at least one (1) evaluation prior to the beginning of the second semester of the school year and the results of any such evaluation shall be made a matter of record in the employee's

personnel file. When any such employee's work is found to be unsatisfactory a defined period of probation shall be established by the board, but in no case shall a probationary period be less than eight (8) weeks. After the probationary period, action shall be taken by the board as to whether the employee is to be retained, immediately discharged, discharged upon termination of the current contract or reemployed at the end of the contract term under a continued probationary status. Notwithstanding the provisions of sections 67-2344 74-205 and 67-2345 74-206, Idaho Code, a decision to place certificated personnel on probationary status may be made in executive session and the employee shall not be named in the minutes of the meeting. A record of the decision shall be placed in the employee's personnel file. This procedure shall not preclude recognition of unsatisfactory work at a subsequent evaluation and the establishment of a reasonable period of probation. In all instances, the employee shall be duly notified in writing of the areas of work which are deficient, including the conditions of probation. Each such certificated employee on a category 3 contract shall be given notice, in writing, whether he or she will be reemployed for the next ensuing year. Such notice shall be given by the board of trustees no later than the twenty-fifth day of May of each such year. If the board of trustees has decided not to reemploy the certificated employee, then the notice must contain a statement of reasons for such decision and the employee shall, upon request, be given the opportunity for an informal review of such decision by the board of trustees. The parameters of an informal review shall be determined by the local board.

(3) School districts hiring an employee who has been on renewable contract status with another Idaho district or has out-of-state experience which would otherwise qualify the certificated employee for renewable contract status in Idaho, shall have the option to immediately grant renewable contract status, or to place the employee on a category 3 annual contract. Such employment on a category 3 contract under the provisions of this subsection may be for one (1), two (2) or three (3) years.

(4) There shall be a minimum of two (2) written evaluations in each of the annual contract years of employment, and at least one (1) evaluation shall be completed before January 1 of each year. The provisions of this subsection (4) shall not apply to employees on a category 1 contract.

SECTION 63. That Section 33-515, Idaho Code, be, and the same is hereby amended to read as follows:

33-515. ISSUANCE OF RENEWABLE CONTRACTS. (1) During the third full year of continuous employment by the same school district, including any specially chartered district, each certificated employee named in subsection (16) of section 33-1001, Idaho Code, and each school nurse and school librarian shall be evaluated for a renewable contract and shall, upon having been offered a contract for the next ensuing year, having given notice of acceptance of renewal and upon signing a contract for a fourth full year, be placed on a renewable contract status with said school district subject to the provisions included in this chapter.

(2) After the third full year of employment and at least once annually, the performance of each such certificated employee, school nurse, or school librarian shall be evaluated according to criteria and procedures established by the board of trustees in accordance with general guidelines approved by the state board of education. Except as otherwise provided, that person shall have the right to automatic renewal of contract by giving notice, in writing, of acceptance of renewal. Such notice shall be given to the board of trustees of the school district then employing such person not later than the first day of June preceding the expiration of the term of the current contract. Except as otherwise provided by this paragraph,



the board of trustees shall notify each person entitled to be employed on a renewable contract of the requirement that such person must give the notice hereinabove and that failure to do so may be interpreted by the board as a declination of the right to automatic renewal or the offer of another contract. Such notification shall be made, in writing, not later than the fifteenth day of May, in each year, except to those persons to whom the board, prior to said date, has sent proposed contracts for the next ensuing year, or to whom the board has given the notice required by this section.

(3) Any contract automatically renewed under the provisions of this section shall be for the same length as the term stated in the current contract and at a salary no lower than that specified therein, to which shall be added such increments as may be determined by the statutory or regulatory rights of such employee by reason of training, service, or performance, except where a board of trustees has declared a financial emergency pursuant to section 33-522, Idaho Code.

(4) Nothing in this section shall prevent the board of trustees from offering a renewed contract increasing the salary of any certificated person, or from reassigning an administrative employee to a nonadministrative position with appropriate reduction of salary from the preexisting salary level. In the event the board of trustees reassigns an administrative employee to a nonadministrative position, the board shall give written notice to the employee which contains a statement of the reasons for the reassignment. The employee, upon written request to the board, shall be entitled to an informal review of that decision. The process and procedure for the informal review shall be determined by the local board of trustees.

(5) Before a board of trustees can determine not to renew for reasons of an unsatisfactory report of the performance of any certificated person whose contract would otherwise be automatically renewed, or to renew the contract of any such person at a reduced salary, such person shall be entitled to a reasonable period of probation. This period of probation shall be preceded by a written notice from the board of trustees with reasons for such probationary period and with provisions for adequate supervision and evaluation of the person's performance during the probationary period. Such period of probation shall not affect the person's renewable contract status. Consideration of probationary status for certificated personnel is consideration of the status of an employee within the meaning of section ~~67-2345~~ 74-206, Idaho Code, and may be held in executive session. If the consideration results in probationary status, the individual on probation shall not be named in the minutes of the meeting. A record of the decision shall be placed in the teacher's personnel file.

(6) If the board of trustees takes action to immediately discharge or discharge upon termination of the current contract a certificated person whose contract would otherwise be automatically renewed, or to renew the contract of any such person at a reduced salary, the action of the board shall be consistent with the procedures specified in section 33-513 5., Idaho Code, and furthermore, the board shall notify the employee in writing whether there is just and reasonable cause not to renew the contract or to reduce the salary of the affected employee, and if so, what reasons it relied upon in that determination.

(7) If the board of trustees takes action after the declaration of a financial emergency pursuant to section 33-522, Idaho Code, and such action is directed at more than one (1) certificated employee and, if mutually agreed to by both parties, a single informal review shall be conducted. Without mutual consent of both parties, the board of trustees shall use the following procedure to conduct a single due process hearing within sixty-seven (67) days of the declaration of financial emergency pursuant to section 33-522 (2), Idaho Code, or on or before June 22, whichever shall occur first:

(a) The superintendent or any other duly authorized administrative officer of the school district may recommend the change in the length of the term stated in the current contract or reduce the salary of any certificated employee by filing with the board of trustees written notice specifying the purported reasons for such changes.

(b) Upon receipt of such notice, the board of trustees, acting through its duly authorized administrative official, shall give the affected employees written notice of the reductions and the recommendation of the change in the length of the term stated in the current contract or the reduction of salary, along with written notice of a hearing before the board of trustees prior to any determination by the board of trustees.

(c) The hearing shall be scheduled to take place not less than six (6) days nor more than fourteen (14) days after receipt of the notice by the employees. The date provided for the hearing may be changed by mutual consent.

(d) The hearing shall be open to the public.

(e) All testimony at the hearing shall be given under oath or affirmation. Any member of the board, or the clerk of the board of trustees, may administer oaths to witnesses or affirmations by witnesses.

(f) The employees may be represented by legal counsel and/or by a representative of a local or state education association.

(g) The chairman of the board of trustees or the designee of the chairman shall conduct the hearing.

(h) The board of trustees shall cause an electronic record of the hearing to be made or shall employ a competent reporter to take stenographic or stenotype notes of all the testimony at the hearing. A transcript of the hearing shall be provided at cost by the board of trustees upon request of the employee.

(i) At the hearing the superintendent or other duly authorized administrative officer shall present evidence to substantiate the reduction contained in such notice.

(j) The employees may produce evidence to refute the reduction. Any witness presented by the superintendent or by the employees shall be subject to cross-examination. The board of trustees may also examine witnesses and be represented by counsel.

(k) The affected employees may file written briefs and arguments with the board of trustees within three (3) days after the close of the hearing or such other time as may be agreed upon by the affected employees and the board of trustees.

(l) Within seven (7) days following the close of the hearing, the board of trustees shall determine and, acting through its duly authorized administrative official, shall notify the employees in writing whether the evidence presented at the hearing established the need for the action taken.

The due process hearing pursuant to this subsection (7) shall not be required if the board of trustees and the local education association reach an agreement on issues agreed upon pursuant to section 33-522 (3), Idaho Code.

(8) If the board of trustees, for reasons other than unsatisfactory service, for the ensuing contract year, determines to change the length of the term stated in the current contract, reduce the salary or not renew the contract of a certificated person whose contract would otherwise be automatically renewed, nothing herein shall require a probationary period.

SECTION 64. That Section 33-1211, Idaho Code, be, and the same is hereby amended to read as follows:

33-1211. PRIVILEGED COMMUNICATION OR PUBLICATION. Any publication or communication made by any member of the state board of education, or by any

person delegated by the said state board to hold or conduct any hearing, or by any certification officer of the state board of education, in the proper discharge of any official duty imposed under section 33-1208 or 33-1209, Idaho Code, shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 65. That Section 33-1273A, Idaho Code, be, and the same is hereby amended to read as follows:

33-1273A. NEGOTIATIONS IN OPEN SESSION. (1) Any other provision of law notwithstanding, including any provisions to the contrary in section ~~67-2345~~ 74-206, Idaho Code, all negotiations pursuant to this act shall be in open session and shall be open and available for the public to attend.

(2) All documentation exchanged between the parties during negotiations, including all offers, counteroffers and meeting minutes shall be subject to public writings disclosure laws.

(3) Any other provision of law notwithstanding, including any other provisions to the contrary in sections 33-402 and ~~67-2343~~ 74-204, Idaho Code, the district shall post notice of all negotiation sessions at the earliest possible time practicable. This shall be done by the district immediately posting notice of the negotiation session on the front page of its district website. If time permits, the district shall also post notice within twenty-four (24) hours at its regular meeting physical posting locations.

SECTION 66. That Section 33-2505A, Idaho Code, be, and the same is hereby amended to read as follows:

33-2505A. DEFINITIONS. As used in this chapter:

(1) "Digital repository" means electronic publications stored and accessible to the public online in a secure digital environment with redundant backup.

(2) "Format" includes any media used for state publications including, but not limited to, electronic, print, audio, visual and microform.

(3) "State agency" includes every constitutional and statutory office, officer, department, division, bureau, board, commission and agency of the state and, where applicable, all subdivisions of each.

(4) "State publication" means any information, regardless of format, published by a state agency and intended for distribution to the public. State publication does not include correspondence, internal confidential publications, office memoranda, university press publications, items detailed by ~~sections 9-340A through 9-340H~~ chapter 1, title 74, Idaho Code, or other information excluded or exempted by rule promulgated by the board of library commissioners.

SECTION 67. That Section 33-2606, Idaho Code, be, and the same is hereby amended to read as follows:

33-2606. BOARD OF TRUSTEES -- MEETINGS. The board of trustees shall meet at least once in each quarter unless required by city ordinance to meet more frequently. One (1) of the meetings shall be designated as the annual meeting. The purposes of the annual meeting are to elect the officers of the board, to establish a regular meeting date, and to review, amend, repeal or adopt bylaws, policies and procedures. Special meetings may be held from time to time as the board may determine, but written notice thereof shall be given to the members at least two (2) days prior to the day of the meeting. A quorum shall consist of three (3) voting members, but a smaller number may adjourn. All library board meetings are to be held pursuant to the open meeting law, ~~sections 67-2340 through 67-2347~~ chapter 2, title 74, Idaho Code.

SECTION 68. That Section 33-2719, Idaho Code, be, and the same is hereby amended to read as follows:

33-2719. BOARD OF TRUSTEES -- MEETINGS. The annual meeting of a library district board shall be on the date of its first regular meeting following each trustee election. The purposes of the annual meeting are to administer the oath of office to the newly elected or re-elected trustee or trustees, to elect the officers of the board, to establish a regular meeting date, and to review, amend, repeal or adopt bylaws, policies and procedures. The regular meetings of the board of trustees of an administrative only district shall be held at least once in each quarter. All other library district boards shall meet at least once every two (2) months at a uniform day of the month as the board of trustees shall determine at its annual meeting. Special or adjourned meetings may be held from time to time as the board may determine, but written notice thereof shall be given to the members at least two (2) days prior to the day of the meeting. A quorum shall consist of three (3) members, but a smaller number may adjourn. All meetings shall be held under the provisions of ~~section 67-2340 through 67-2347~~ chapter 2, title 74, Idaho Code. It is the duty of each trustee to attend all meetings of the board of trustees.

SECTION 69. That Section 33-3407, Idaho Code, be, and the same is hereby amended to read as follows:

33-3407. GOVERNMENTAL ENTITY -- LIABILITY -- INSURANCE. (1) The Idaho bureau of educational services for the deaf and the blind, as provided for in this chapter, is not a single department of state government unto itself, nor is it a part of any of the twenty (20) departments of state government authorized by section 20, article IV, of the constitution of the state of Idaho, or of the departments provided for in section 67-2402, Idaho Code. It is legislative intent that the Idaho bureau of educational services for the deaf and the blind operate and be recognized not as a state agency or department, but as a governmental entity whose creation has been authorized by the state, much in the manner as other single purpose districts. For the purposes of section 59-1302(15), Idaho Code, the Idaho bureau of educational services for the deaf and the blind created pursuant to this chapter shall be deemed a governmental entity. Pursuant to the provisions of section 63-36220, Idaho Code, sales to or purchases by the Idaho bureau of educational services for the deaf and the blind are exempt from payment of the sales and use tax. The Idaho bureau of educational services for the deaf and the blind, its employees and its board of directors are subject to the following provisions in the same manner as a traditional public school and the board of trustees of a school district:

- (a) Sections 18-1351 through 18-1362, Idaho Code, on bribery and corrupt influence, except as provided by section 33-5204A(2), Idaho Code;
- (b) ~~Chapter 2, title 59~~ Chapter 5, title 74, Idaho Code, on prohibitions against contracts with officers;
- (c) ~~Chapter 7, title 59~~ Chapter 4, title 74, Idaho Code, on ethics in government;
- (d) ~~Chapter 23, title 67~~ Chapter 2, title 74, Idaho Code, on open public meetings; and
- (e) ~~Chapter 3, title 9~~ Chapter 1, title 74, Idaho Code, on disclosure of public records.

(2) The Idaho bureau of educational services for the deaf and the blind, its employees and its board of directors are subject to the following provisions:

- (a) Section 33-1216, Idaho Code, on sick and other leave, or the laws, rules and policies of the state of Idaho for sick and other leave as

provided for in chapter 53, title 67, Idaho Code, as determined by the board;

(b) Section 33-1217, Idaho Code, on accumulation of unused sick leave, or the laws, rules and policies of the state of Idaho for accumulation of unused sick leave as provided for in section 67-5333, Idaho Code, as determined by the board;

(c) Section 33-1218, Idaho Code, on sick leave in excess of statutory minimum amounts, or the laws, rules and policies of the state of Idaho for sick leave in excess of statutory minimum amounts as provided for in section 67-5333, Idaho Code, as determined by the board; and

(d) Section 33-1228, Idaho Code, on severance allowance at retirement, or the laws, rules and policies of the state of Idaho for severance allowance at retirement as provided for in section 67-5333, Idaho Code, as determined by the board.

(3) The Idaho bureau of educational services for the deaf and the blind may sue or be sued, purchase, receive, hold and convey real and personal property for school purposes, and its employees, directors and officers shall enjoy the same immunities as employees, directors and officers of traditional public school districts and other public schools, including those provided by chapter 9, title 6, Idaho Code.

(4) The Idaho bureau of educational services for the deaf and the blind shall be considered a state department for purposes of risk management and group insurance pursuant to chapter 57, title 67, Idaho Code, and the department of administration shall treat the bureau as such.

(5) It shall be unlawful for:

(a) Any director to have pecuniary interest directly or indirectly in any contract or other transaction pertaining to the maintenance or conduct of the Idaho bureau of educational services for the deaf and the blind, or to accept any reward or compensation for services rendered as a director except as may be otherwise provided in this subsection. The board of directors of the Idaho bureau of educational services for the deaf and the blind may accept and award contracts involving the Idaho bureau of educational services for the deaf and the blind to businesses in which the director or a person related to him by blood or marriage within the second degree of consanguinity has a direct or indirect interest, provided that the procedures set forth in section 18-1361 or 18-1361A, Idaho Code, are followed. The receiving, soliciting or acceptance of moneys of the Idaho bureau of educational services for the deaf and the blind for deposit in any bank or trust company, or the lending of moneys by any bank or trust company to the Idaho bureau of educational services for the deaf and the blind, shall not be deemed to be a contract pertaining to the maintenance or conduct of the Idaho bureau of educational services for the deaf and the blind within the meaning of this section; nor shall the payment of compensation by the Idaho bureau of educational services for the deaf and the blind board of directors to any bank or trust company for services rendered in the transaction of any banking business with the Idaho bureau of educational services for the deaf and the blind board of directors be deemed the payment of any reward or compensation to any officer or director of any such bank or trust company within the meaning of this section.

(b) The board of directors of the Idaho bureau of educational services for the deaf and the blind to enter into or execute any contract with the spouse of any member of such board, the terms of which said contract require, or shall require, the payment or delivery of any Idaho bureau of educational services for the deaf and the blind funds, moneys or property to such spouse, except as provided in section 18-1361 or 18-1361A, Idaho Code.

(6) When any relative of any director, or relative of the spouse of a director related by affinity or consanguinity within the second degree, is

to be considered for employment in the Idaho bureau of educational services for the deaf and the blind, such director shall abstain from voting in the election of such relative, and shall be absent from the meeting while such employment is being considered and determined.

SECTION 70. That Section 33-5204, Idaho Code, be, and the same is hereby amended to read as follows:

33-5204. NONPROFIT CORPORATION -- LIABILITY -- INSURANCE. (1) A public charter school shall be organized and managed under the Idaho nonprofit corporation act. The board of directors of a public charter school shall be deemed public agents authorized by a public school district, the public charter school commission, or the state board of education to control the public charter school, but shall function independently of any school board of trustees in any school district in which the public charter school is located or independently of the public charter school commission, except as provided in the charter. For the purposes of section 59-1302(15), Idaho Code, a public charter school created pursuant to this chapter shall be deemed a governmental entity. Pursuant to the provisions of section 63-36220, Idaho Code, sales to or purchases by a public charter school are exempt from payment of the sales and use tax. A public charter school and the board of directors of a public charter school are subject to the provisions of:

- (a) Sections 18-1351 through 18-1362, Idaho Code, on bribery and corrupt influence, except as provided by section 33-5204A(2), Idaho Code;
- (b) ~~Chapter 2, title 59~~ Chapter 5, title 74, Idaho Code, on prohibitions against contracts with officers;
- (c) ~~Chapter 7, title 59~~ Chapter 4, title 74, Idaho Code, on ethics in government;
- (d) ~~Chapter 23, title 67~~ Chapter 2, title 74, Idaho Code, on open public meetings; and
- (e) ~~Chapter 3, title 9~~ Chapter 1, title 74, Idaho Code, on disclosure of public records;

in the same manner that a traditional public school and the board of school trustees of a school district are subject to those provisions.

(2) A public charter school may sue or be sued, purchase, receive, hold and convey real and personal property for school purposes, and borrow money for such purposes, to the same extent and on the same conditions as a traditional public school district, and its employees, directors and officers shall enjoy the same immunities as employees, directors and officers of traditional public school districts and other public schools, including those provided by chapter 9, title 6, Idaho Code. The authorized chartering entity that approves a public school charter shall have no liability for the acts, omissions, debts or other obligations of a public charter school, except as may be provided in the charter. A local public school district shall have no liability for the acts, omissions, debts or other obligations of a public charter school located in its district that has been approved by an authorized chartering entity other than the board of trustees of the local school district.

(3) Nothing in this chapter shall prevent the board of directors of a public charter school, operating as a nonprofit corporation, from borrowing money to finance the purchase or lease of school building facilities, equipment and furnishings of those school building facilities. Subject to the terms of a contractual agreement between the board and a lender, nothing herein shall prevent the board from using the facility, its equipment and furnishings as collateral for the loan.

(4) Public charter schools shall secure insurance for liability and property loss.

(5) It shall be unlawful for:

(a) Any director to have pecuniary interest, directly or indirectly, in any contract or other transaction pertaining to the maintenance or conduct of the authorized chartering entity and charter or to accept any reward or compensation for services rendered as a director except as may be otherwise provided in this subsection. The board of directors of a public charter school may accept and award contracts involving the public charter school to businesses in which the director or a person related to him by blood or marriage within the second degree has a direct or indirect interest, provided that the procedures set forth in section 18-1361 or 18-1361A, Idaho Code, are followed. The receiving, soliciting or acceptance of moneys of a public charter school for deposit in any bank or trust company, or the lending of moneys by any bank or trust company to any public charter school, shall not be deemed to be a contract pertaining to the maintenance or conduct of a public charter school and authorized chartering entity within the meaning of this section; nor shall the payment by any public charter school board of directors of compensation to any bank or trust company for services rendered in the transaction of any banking business with such public charter school board of directors be deemed the payment of any reward or compensation to any officer or director of any such bank or trust company within the meaning of this section.

(b) The board of directors of any public charter school to enter into or execute any contract with the spouse of any member of such board, the terms of which said contract require, or will require, the payment or delivery of any public charter school funds, moneys or property to such spouse, except as provided in paragraph (c) of this subsection or in section 18-1361 or 18-1361A, Idaho Code.

(c) No spouse of any director may be employed by a public charter school physically located within the boundaries of a school district with a fall student enrollment population of greater than one thousand two hundred (1,200) in the prior school year. For public charter schools physically located within the boundaries of a school district with a fall student enrollment population of one thousand two hundred (1,200) or less in the prior school year, such spouse may be employed in a nonadministrative position for a school year if each of the following conditions has been met:

(i) The position has been listed as open for application on the public charter school website or in a local newspaper, whichever is consistent with the school's current practice, and the position shall be listed for at least sixty (60) days, unless the opening occurred during the school year, in which case the position shall be so listed for at least fifteen (15) days. If the position is listed in a newspaper, the listing shall be made in a manner consistent with the provisions of section 60-106, Idaho Code;

(ii) No applications were received that met the minimum certification, endorsement, education or experience requirements of the position other than such spouse;

(iii) The director abstained from voting in the employment of the spouse and was absent from the meeting while such employment was being considered and determined.

The public charter school may employ such spouse for further school years, provided that the conditions contained in this paragraph are met for each school year in which such spouse is employed. The director shall abstain from voting in any decisions affecting the compensation, benefits, individual performance evaluation or disciplinary action related to the spouse and shall be absent from the meeting while such issues are being considered and determined. Such limitation shall include, but not be limited to: any matters relating to negotiations regarding compensation and benefits; discussion and negotiation with

district benefits providers; and any matter relating to the spouse and letters of reprimand, direction, probation or termination. Such limitations shall not prohibit the trustee spouse from participating in deliberation and voting upon the district's annual fiscal budget or annual audit report. Any spouse of a director employed as a certificated employee pursuant to this paragraph shall be employed under a category 1 contract pursuant to section 33-514A, Idaho Code.

(6) When any relative of any director or relative of the spouse of a director related by affinity or consanguinity within the second degree is to be considered for employment in a public charter school, such director shall abstain from voting in the election of such relative and shall be absent from the meeting while such employment is being considered and determined.

SECTION 71. That Section 33-5204, Idaho Code, as enacted by Section 9, Chapter 252, Laws of 2014, be, and the same is hereby amended to read as follows:

33-5204. NONPROFIT CORPORATION -- LIABILITY -- INSURANCE. (1) A public charter school shall be organized and managed under the Idaho nonprofit corporation act. The board of directors of a public charter school shall be deemed public agents authorized by a public school district, the public charter school commission, or the state board of education to control the public charter school, but shall function independently of any school board of trustees in any school district in which the public charter school is located or independently of the public charter school commission, except as provided in the charter. For the purposes of section 59-1302(15), Idaho Code, a public charter school created pursuant to this chapter shall be deemed a governmental entity. Pursuant to the provisions of section 63-36220, Idaho Code, sales to or purchases by a public charter school are exempt from payment of the sales and use tax. A public charter school and the board of directors of a public charter school are subject to the provisions of:

- (a) Sections 18-1351 through 18-1362, Idaho Code, on bribery and corrupt influence, except as provided by section 33-5204A(2), Idaho Code;
- (b) ~~Chapter 2, title 59~~ Chapter 5, title 74, Idaho Code, on prohibitions against contracts with officers;
- (c) ~~Chapter 7, title 59~~ Chapter 4, title 74, Idaho Code, on ethics in government;
- (d) ~~Chapter 23, title 67~~ Chapter 2, title 74, Idaho Code, on open public meetings; and
- (e) ~~Chapter 3, title 9~~ Chapter 1, title 74, Idaho Code, on disclosure of public records;

in the same manner that a traditional public school and the board of school trustees of a school district are subject to those provisions.

(2) A public charter school may sue or be sued, purchase, receive, hold and convey real and personal property for school purposes, and borrow money for such purposes, to the same extent and on the same conditions as a traditional public school district, and its employees, directors and officers shall enjoy the same immunities as employees, directors and officers of traditional public school districts and other public schools, including those provided by chapter 9, title 6, Idaho Code. The authorized chartering entity that approves a public school charter shall have no liability for the acts, omissions, debts or other obligations of a public charter school, except as may be provided in the charter. A local public school district shall have no liability for the acts, omissions, debts or other obligations of a public charter school located in its district that has been approved by an authorized chartering entity other than the board of trustees of the local school district.



(3) Nothing in this chapter shall prevent the board of directors of a public charter school, operating as a nonprofit corporation, from borrowing money to finance the purchase or lease of school building facilities, equipment and furnishings of those school building facilities. Subject to the terms of a contractual agreement between the board and a lender, nothing herein shall prevent the board from using the facility, its equipment and furnishings as collateral for the loan.

(4) Public charter schools shall secure insurance for liability and property loss.

(5) It shall be unlawful for:

(a) Any director to have pecuniary interest, directly or indirectly, in any contract or other transaction pertaining to the maintenance or conduct of the authorized chartering entity and charter or to accept any reward or compensation for services rendered as a director except as may be otherwise provided in this subsection. The board of directors of a public charter school may accept and award contracts involving the public charter school to businesses in which the director or a person related to him by blood or marriage within the second degree has a direct or indirect interest, provided that the procedures set forth in section 18-1361 or 18-1361A, Idaho Code, are followed. The receiving, soliciting or acceptance of moneys of a public charter school for deposit in any bank or trust company, or the lending of moneys by any bank or trust company to any public charter school, shall not be deemed to be a contract pertaining to the maintenance or conduct of a public charter school and authorized chartering entity within the meaning of this section; nor shall the payment by any public charter school board of directors of compensation to any bank or trust company for services rendered in the transaction of any banking business with such public charter school board of directors be deemed the payment of any reward or compensation to any officer or director of any such bank or trust company within the meaning of this section.

(b) The board of directors of any public charter school to enter into or execute any contract with the spouse of any member of such board, the terms of which said contract require, or will require, the payment or delivery of any public charter school funds, moneys or property to such spouse, except as provided in section 18-1361 or 18-1361A, Idaho Code.

(6) When any relative of any director or relative of the spouse of a director related by affinity or consanguinity within the second degree is to be considered for employment in a public charter school, such director shall abstain from voting in the election of such relative and shall be absent from the meeting while such employment is being considered and determined.

SECTION 72. That Section 33-5204A, Idaho Code, be, and the same is hereby amended to read as follows:

33-5204A. APPLICABILITY OF PROFESSIONAL CODES AND STANDARDS -- LIMITATIONS UPON AUTHORITY. (1) Every person who serves in a public charter school, either as an employee, contractor, or otherwise, in the capacity of teacher, supervisor, administrator, education specialist, school nurse or librarian, must comply with the professional codes and standards approved by the state board of education, including standards for ethics or conduct.

(2) Every employee of a public charter school and every member of the board of directors of a public charter school, whether compensated or non-compensated, shall comply with the standards of ethics or conduct applicable to public officials including, but not limited to, ~~chapter 7, title 59~~ chapter 4, title 74, Idaho Code, except that section ~~59-704A~~ 74-405, Idaho Code, which permits a noncompensated public official to have an interest in a contract made or entered into by the board of which he is a member under certain conditions, shall not apply to the board of directors of a public char-

ter school. A member of the board of directors of a public charter school is prohibited from receiving a personal pecuniary benefit, directly or indirectly, pertaining to a contractual relationship with the public charter school.

SECTION 73. That Section 33-5504A, Idaho Code, be, and the same is hereby amended to read as follows:

33-5504A. GOVERNMENTAL ENTITY. (1) The Idaho digital learning academy shall be a governmental entity as provided in section 33-5502, Idaho Code. For the purposes of section 59-1302(15), Idaho Code, the Idaho digital learning academy created pursuant to this chapter shall be deemed a governmental entity. Pursuant to the provisions of section 63-36220, Idaho Code, sales to or purchases by the Idaho digital learning academy are exempt from payment of the sales and use tax. The Idaho digital learning academy, its employees and its board of directors are subject to the following provisions in the same manner as a traditional public school and the board of trustees of a school district:

- (a) Sections 18-1351 through 18-1362, Idaho Code, on bribery and corrupt influence, except as provided by section 33-5204A(2), Idaho Code;
- (b) ~~Chapter 2, title 59~~ Chapter 5, title 74, Idaho Code, on prohibitions against contracts with officers;
- (c) ~~Chapter 7, title 59~~ Chapter 4, title 74, Idaho Code, on ethics in government;
- (d) ~~Chapter 23, title 67~~ Chapter 2, title 74, Idaho Code, on open public meetings;
- (e) ~~Chapter 3, title 9~~ Chapter 1, title 74, Idaho Code, on disclosure of public records;
- (f) Section 33-1216, Idaho Code, on sick and other leave;
- (g) Section 33-1217, Idaho Code, on accumulation of unused sick leave;
- (h) Section 33-1218, Idaho Code, on sick leave in excess of statutory minimum amounts; and
- (i) Section 33-1228, Idaho Code, on severance allowance at retirement.

(2) The Idaho digital learning academy may sue or be sued, purchase, receive, hold and convey real and personal property for school purposes, and its employees, directors and officers shall enjoy the same immunities as employees, directors and officers of traditional public school districts and other public schools, including those provided by chapter 9, title 6, Idaho Code.

(3) The Idaho digital learning academy shall secure insurance for liability and property loss.

(4) It shall be unlawful for:

- (a) Any director to have pecuniary interest directly or indirectly in any contract or other transaction pertaining to the maintenance or conduct of the Idaho digital learning academy, or to accept any reward or compensation for services rendered as a director except as may be otherwise provided in this subsection (4). The board of directors of the Idaho digital learning academy may accept and award contracts involving the Idaho digital learning academy to businesses in which the director or a person related to him by blood or marriage within the second degree of consanguinity has a direct or indirect interest, provided that the procedures set forth in section 18-1361 or 18-1361A, Idaho Code, are followed. The receiving, soliciting or acceptance of moneys of the Idaho digital learning academy for deposit in any bank or trust company, or the lending of moneys by any bank or trust company to the Idaho digital learning academy, shall not be deemed to be a contract pertaining to the maintenance or conduct of the Idaho digital learning academy within the meaning of this section; nor shall the payment of compensation by the Idaho digital learning academy board of directors

to any bank or trust company for services rendered in the transaction of any banking business with the Idaho digital learning academy board of directors be deemed the payment of any reward or compensation to any officer or director of any such bank or trust company within the meaning of this section.

(b) The board of directors of the Idaho digital learning academy to enter into or execute any contract with the spouse of any member of such board, the terms of which said contract require, or will require, the payment or delivery of any Idaho digital learning academy funds, moneys or property to such spouse, except as provided in section 18-1361 or 18-1361A, Idaho Code.

(5) When any relative of any director, or relative of the spouse of a director related by affinity or consanguinity within the second degree, is to be considered for employment in the Idaho digital learning academy, such director shall abstain from voting in the election of such relative, and shall be absent from the meeting while such employment is being considered and determined.

SECTION 74. That Section 34-416, Idaho Code, be, and the same is hereby amended to read as follows:

34-416. REGISTRATION CARDS. (1) The registration card shall contain the following warning:

WARNING: Any elector who supplies any information, knowing it to be false, is guilty of perjury.

(2) The elector shall read the warning set forth in subsection (1) of this section and shall sign his name in an appropriate place on the completed card.

(3) The registration card completed and signed as provided in this section constitutes the official registration card of the elector. The county clerk shall keep and file all such cards in a convenient manner in his office. Such cards constitute the register of electors and shall be considered confidential and unavailable for public inspection and copying except as provided by subsection (25) of section ~~9-340C~~ 74-106, Idaho Code.

SECTION 75. That Section 36-105, Idaho Code, be, and the same is hereby amended to read as follows:

36-105. COMMISSION ORDERS, RULES AND PROCLAMATIONS. (1) Adoption and Publication of Rules and Orders. All rules and orders adopted pursuant to the provisions of this title shall be made in accordance with chapter 52, title 67, Idaho Code. Said rules and orders may also be given such other publicity as the commission may deem desirable.

(2) Violation of Rules, Proclamations and Orders. All rules, proclamations and orders made as herein provided shall have full force and effect as law and any person violating any such rule, proclamation or order of the commission, adopted and published as herein set forth, shall be found guilty as set forth in section 36-1401, Idaho Code.

(3) Notwithstanding any other provision of chapter 52, title 67, Idaho Code, the Idaho fish and game commission and the director of the Idaho fish and game department shall be excepted from the requirements of rulemaking when adopting, repealing, or amending any proclamation relating to setting of any season or limit on numbers, size, sex or species of wildlife classified by the commission as game animals, game birds, furbearers, migratory birds, salmon, steelhead and resident fish which may be taken in this state if:

(a) Notice of the proposed proclamation is published in the Idaho administrative bulletin and is provided in the same manner as an open meeting under section ~~67-2343~~ 74-204, Idaho Code;

(b) Notice is given to the director of the legislative services office for review by the germane joint subcommittee as soon as possible after adoption by the commission; and

(c) The proclamation shall be published in a pamphlet or brochure as provided in section 59-1012, Idaho Code, and distributed without charge to the public. The text of the proclamation published in a pamphlet or brochure shall be the official text of the proclamation. Judicial notice shall be taken of the proclamation pamphlet or brochure.

SECTION 76. That Section 36-402, Idaho Code, be, and the same is hereby amended to read as follows:

36-402. LICENSES -- AUTHORITY -- LIMITATIONS -- CONFIDENTIALITY. The licenses mentioned in this chapter shall entitle the person to whom issued to take such wildlife as may be authorized by said license, subject to the limitations set forth under this title and commission regulations promulgated pursuant thereto. 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 shall be confidential and not subject to disclosure pursuant to the provisions of ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, unless written consent is obtained from the affected person.

SECTION 77. That Section 36-2114, Idaho Code, be, and the same is hereby amended to read as follows:

36-2114. REVOCATION OR SUSPENSION OF LICENSE -- REVIEW OF DENIAL OF LICENSE -- PROCEDURE. (a) Proceedings for the revocation or suspension of a license issued hereunder may be taken upon information and recommendation of any person. All accusations must be made in writing and signed by a person familiar therewith and submitted to the board. Thereupon, the board, acting as a board, or through its executive director, shall make a preliminary investigation of all facts in connection with such charge. The board in its discretion may either decide to take no further action and the results of such investigation shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, or the board may decide to initiate proceedings to suspend or revoke the license of the outfitter or guide against whom a complaint has been filed, in which case the board shall set a time and place for hearing as provided in chapter 52, title 67, Idaho Code. Notice of such hearing shall be given to the licensee against whom a citation or formal complaint has been filed not later than one hundred eighty (180) days after the filing of such citation or formal complaint. If, after full, fair and impartial hearing, the majority of the board shall find the accused has committed the violations alleged, the board may suspend the license for a period not to exceed one (1) year, or the board may order the license revoked. The board shall forthwith suspend or revoke such license in accordance with and pursuant to its order under the procedure established in chapter 52, title 67, Idaho Code.

(b) Any applicant aggrieved by a denial of his application in whole or in part for an outfitter's or guide's license by the board shall have twenty-one (21) days from the day of receiving such notice of denial in which to submit a written request for a hearing before the board to review such action. Upon receipt of such request, the board shall hold a hearing as provided in chapter 52, title 67, Idaho Code.

SECTION 78. That Section 37-401, Idaho Code, be, and the same is hereby amended to read as follows:

37-401. INSPECTIONS, EXAMINATIONS AND TESTS BY DEPARTMENT OF AGRICULTURE -- DAIRY FARMS -- NUTRIENT MANAGEMENT PLANS REQUIRED -- CERTAIN EVIDENCE REQUIRED. (1) The director of the department of agriculture is hereby authorized and directed to designate any agent to inspect, examine and test any or all dairy products in accordance with rules as the department may prescribe; and to ascertain and certify the grade, classification, quality or sanitary condition thereof and other pertinent facts as the department may require. The director or agent of the department of agriculture of the state of Idaho shall make sanitary inspection of milk, cream, butter and dairy products of any kind whatsoever, intended for human consumption, and of containers, utensils, equipment, buildings, premises or anything whatsoever employed in the production, handling, storing, processing or manufacturing of dairy products or that would affect the purity of the products. Inspections, examinations and tests shall be made to meet the requirements of the laws of the state and of the United States for the sale of the products or their transportation in both intrastate and interstate commerce. Any agent designated by the director to make inspections shall have the right for that purpose to enter any premises and buildings where milk, cream, butter or dairy products shall be produced, stored, processed or manufactured.

(2) Acting in accord with rules of the department, the director or agent of the department shall review plans and specifications for construction of new, modified or expanded waste systems and inspect any dairy farm to ascertain and certify sanitary conditions, waste systems and milk quality.

(3) The director or agent shall issue a permit authorizing the sale of milk for human consumption to all dairy farms that meet the requirements of this chapter, and rules promulgated pursuant to this chapter.

(4) All dairy farms shall have a nutrient management plan approved by the department. The nutrient management plan shall cover the dairy farm site and other land owned and operated by the dairy farm owner or operator. Nutrient management plans submitted to the department by the dairy farm shall include the names and addresses of each recipient of that dairy farm's livestock waste, the number of acres to which the livestock waste is applied and the amount of such livestock waste received by each recipient. The information provided in this subsection shall be available to the county in which the dairy farm, or the land upon which the livestock waste is applied, is located. If livestock waste is converted to compost before it leaves the dairy farm, only the first recipient of the compost must be listed in the nutrient management plan as a recipient of livestock waste from the dairy farm. Existing dairy farms shall submit a nutrient management plan to the department on or before July 1, 2001.

(5) Any new dairy farms or dairy farms that change owners or operators shall have an approved nutrient management plan on file with the department prior to the issuance of the milk permit for that dairy. The nutrient management plan shall be implemented upon approval of the plan by the department.

(6) The director or his agent may issue a permit to sell milk for human consumption to a new or expanding dairy farm only upon presentation to the director by the new or expanding dairy farm of:

- (a) A certified letter, supplied by the board of county commissioners, certifying the new or expanding dairy farm's compliance with applicable county livestock ordinances; and
- (b) Evidence that a valid water right exists to supply adequate water for the new or expanding dairy farm; or
- (c) A copy of an application for a permit to appropriate water that has been filed with the Idaho department of water resources and which, if approved, will supply adequate water for the dairy farm; or

(d) A copy of an application to change the point of diversion, place, period and nature of use of an existing water right that has been filed with the Idaho department of water resources and which, if approved, will supply adequate water for the dairy farm.

(7) As used in this section:

(a) "Animal units" shall be as defined in rule by the director.

(b) "Expanding dairy farm" means an existing, legally permitted dairy farm that increases, or applies to increase, its existing animal units beyond the number for which it is permitted under applicable county livestock ordinances or increases, or applies to increase, the waste containment system.

(c) "New dairy farm" means a dairy farm constructed after the effective date of this act.

(8) The nutrient management plan, and all information generated by the dairy as a result of such plan, shall be deemed to be trade secrets, production records or other proprietary information, shall be kept confidential and shall be exempt from disclosure pursuant to section 9-340D 74-107, Idaho Code.

SECTION 79. That Section 37-606, Idaho Code, be, and the same is hereby amended to read as follows:

37-606. NUTRIENT MANAGEMENT PLAN. (1) All dairy farms shall have a nutrient management plan approved by the department. The nutrient management plan shall cover the dairy farm site and other land owned and operated by the dairy farm owner or operator. Nutrient management plans submitted to the department by the dairy farm shall include the names and addresses of each recipient of that dairy farm's livestock waste, the number of acres to which the livestock waste is applied and the amount of such livestock waste received by each recipient. The information provided in this subsection shall be available to the county in which the dairy farm, or the land upon which the livestock waste is applied, is located. If livestock waste is converted to compost before it leaves the dairy farm, only the first recipient of the compost must be listed in the nutrient management plan as a recipient of livestock waste from the dairy farm. Existing dairy farms shall submit a nutrient management plan to the department.

(2) Any new dairy farms or dairy farms that change owners or operators shall have an approved nutrient management plan on file with the department prior to the issuance of the milk permit for that dairy. The nutrient management plan shall be implemented upon approval of the plan by the department.

(3) The nutrient management plan, and all information generated by the dairy as a result of such plan, shall be deemed to be trade secrets, production records or other proprietary information, shall be kept confidential and shall be exempt from disclosure pursuant to section 9-340D 74-107, Idaho Code.

SECTION 80. That Section 37-2743, Idaho Code, be, and the same is hereby amended to read as follows:

37-2743. COOPERATIVE ARRANGEMENTS. (a) The director of the Idaho state police shall cooperate with federal and other state agencies in discharging his responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, he may:

(1) Arrange for the exchange of information among governmental officials concerning the use and abuse of controlled substances;

(2) Coordinate and cooperate in training programs concerning controlled substance law enforcement at local and state levels;

(3) Cooperate with the bureau by establishing a centralized unit to accept, catalogue, file, and collect statistics, including records of

drug dependent persons and other controlled substance law offenders within the state, and make the information available for federal, state and local law enforcement purposes. The name or identity of a patient or research subject whose identity could not be obtained under subsection (c) of this section shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code;

(4) Conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substance may be extracted;

(5) Enter into agreements with other states to coordinate and facilitate the enforcement of this act; and

(6) Require law enforcement agencies to report such information regarding traffic in controlled substances and abuse of controlled substances as he deems necessary to enforce this act. Such reports shall be on forms supplied by the director of the Idaho state police and shall include, but not be limited to, the following information: Names, ages, sex, race, and residences of individuals involved in violations of this act; the contraband confiscated, showing the kind, location, quantity, date, and place where seized; the circumstances surrounding the arrests and a report of the disposition of charges.

(b) Results, information, and evidence received from the bureau relating to the regulatory functions of this act, including results of inspections and investigations conducted by the bureau may be relied and acted upon by the board in the exercise of its regulatory functions under this act.

(c) A practitioner engaged in medical practice or research is not required or compelled to furnish the name or identity of a patient or research subject to the director, nor may he be compelled in any state or local civil, criminal, administrative, legislative or other proceedings to furnish the name or identity of an individual that the practitioner is obligated to keep confidential and as such the name or identity of the patient or research subject is subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 81. That Section 38-712, Idaho Code, be, and the same is hereby amended to read as follows:

38-712. INFORMATION, CORRESPONDENCE AND DATA -- DUTY TO GUARD. It shall be the duty of all officers and employees of the forest, wildlife and range experiment station, appointed or assigned, to guard carefully all confidential information accumulated in the progress of their work and such information shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code; and to consider as property of the forest, wildlife and range experiment station all correspondence, notes, illustrations and data of any kind accumulated by them in the execution of the work of the experiment station delegated to them.

SECTION 82. That Section 39-111, Idaho Code, be, and the same is hereby amended to read as follows:

39-111. AVAILABILITY OF RECORDS. Any records or other information furnished to the board, department or to agents, contractors, or other representatives of the department under any provisions of this chapter shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 83. That Section 39-270, Idaho Code, be, and the same is hereby amended to read as follows:

39-270. DISCLOSURE OF INFORMATION. (a) Certificates and records in the custody of the state registrar shall be open to inspection subject to the provisions of this chapter and the rules of the board, the provisions of section 9-302, Idaho Code, to the contrary notwithstanding; and it shall be unlawful for any state or local official or employee under this chapter to disclose any data contained in the records, except as authorized by this chapter and the rules of the board.

(b) A complete copy, or any part of a certificate, may be issued to any applicant who can show direct and tangible interest in the record for which he applies. A complete copy, or any part of a certificate, shall be issued upon request to a state, federal or local public agency for child support enforcement purposes pursuant to chapters 10, 11 and 12, title 7, Idaho Code, and sections 16-1628, 20-524, 32-710A, and 56-203, Idaho Code, or for the purpose of investigation of fraud related to benefit payments. Subject to such provisions as the board may prescribe, data contained on records may be used by federal, state or municipal agencies for the purpose of verification of data.

(c) As provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, data contained on records may be used for research, public health or statistical purposes. No lists of registration shall be compiled for public use.

(d) The manner of keeping local records and the use thereof shall be prescribed by the board, in keeping with the provisions of this section.

(e) When one hundred (100) years have elapsed after the date of birth, or fifty (50) years have elapsed after the date of death, stillbirth, marriage or divorce, the records of these events in the custody of the state registrar shall become public records and information shall be made available in accordance with ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 84. That Section 39-606, Idaho Code, be, and the same is hereby amended to read as follows:

39-606. REPORTS. Reports to the director of the department of health and welfare of the existence of diseases included in this chapter shall be made by the name of the patient being treated for such disease. It is the intent of this chapter to observe all possible secrecy for the benefit of the sufferer so long as the said sufferer conforms to the requirements of this chapter. Confidential disease reports containing patient identification reported under this section shall only be used by public health officials who must conduct investigations and shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. Any person who willfully or maliciously discloses the content of any confidential public health record, as described herein to any third party, except pursuant to a written authorization by the person who is the subject of the record or by his or her guardian or conservator, or as otherwise authorized by law, shall be guilty of a misdemeanor.

SECTION 85. That Section 39-610, Idaho Code, be, and the same is hereby amended to read as follows:

39-610. DISCLOSURE OF HIV AND HBV REPORTING INFORMATION. (1) Confidential public health record as described in section 39-606, Idaho Code, shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, shall not be discoverable, and shall not be compelled to be produced in any civil or administrative hearing.

(2) State or local health authorities may contact and advise those persons who, in the judgment of health authorities, have been exposed to the HIV (human immunodeficiency virus) or hepatitis B (HBV) infections.

(3) The department of health and welfare shall, in a manner established by rules and regulations, accept from persons involved in providing emer-



gency or medical services reports of significant exposures to the blood or body fluids of a patient or deceased person. The department of health and welfare shall promulgate rules and regulations defining the term "significant exposure" as used in this section. Upon receipt of a report made pursuant to section 39-602, Idaho Code, confirming the presence of HIV or HBV virus in a patient or a deceased person, the director of the department of health and welfare, or his designee, shall immediately contact and advise any and all persons who, on the basis of information then or thereafter reported to the department, have had a significant exposure to the blood or body fluids of that infected patient or deceased person. The significantly exposed person shall be informed only that he may have been exposed to HIV or HBV, as the case may be, and thereafter advised of whatever prophylactic and testing procedures are appropriate. The significantly exposed person shall not be informed of the name of the infected patient or deceased person. Additionally, the department of health and welfare shall, to the greatest extent consistent with public health requirements, maintain the confidentiality of the identity of the significantly exposed person.

(4) Public health authorities may disclose personally identifying information in public health records, as described in section 39-606, Idaho Code, to other local or state public health agencies when the confidential information is necessary to carry out the duties of the agency in the investigation, control and surveillance of disease, as determined by the state board of health and welfare, or as otherwise authorized by law.

(5) Nothing in this chapter imposes liability or criminal sanction for disclosure or nondisclosure of the results of a blood test to detect HIV or HBV virus in accordance with any reporting requirements of the department of health and welfare.

SECTION 86. That Section 39-1210, Idaho Code, be, and the same is hereby amended to read as follows:

39-1210. STANDARDS FOR CHILDREN'S RESIDENTIAL CARE FACILITIES. The board of health and welfare shall have the power and it shall be its duty to promulgate appropriate rules necessary to implement and enforce the following standards for licensing a children's residential care facility:

(1) Assure the organizational stability of the facility, which may require incorporation under the laws of Idaho.

(2) Require from the policy-making authority of the facility the promulgation of a statement setting forth the facility's purposes and objectives and describing the character and extent of the services which it offers and maintains, and the geographical area to be served.

(3) Require a statement of solvency sufficient to maintain facilities and personnel necessary to achieve its purposes and objectives and to maintain its services.

(4) Assure such recordkeeping and reporting as may be deemed necessary to the facility's services and to the department's licensing responsibility.

(5) Assure the safety and physical care of children for whom the facility assumes or accepts responsibility.

(6) Establish the legal status of each child accepted for care and the legal authority and responsibility of the facility for the child.

(7) Require a statement of intake policy which shall set forth criteria for accepting children for care or service in relation to the facility's purposes and facilities.

(8) Provide through observation and collateral inquiry for studies of homes into which children may be placed sufficient to enable a judgment determining the adequacy of the homes in relation to the needs of the children.

(9) In the case of an institution specializing in maternity care to unmarried mothers:

- (a) Assure social services on behalf of both the mother and infant; and
- (b) Assure protection of the legal rights and rights to confidential treatment of minor unmarried mothers and their children which shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

(10) The department shall obtain a criminal history check on the owners, operators and employees of all children's residential care facilities. The criminal history check shall include the following:

- (a) Statewide criminal identification bureau;
- (b) Federal bureau of investigation (FBI) criminal history;
- (c) National crime information center; and
- (d) Statewide child abuse register.

SECTION 87. That Section 39-1310, Idaho Code, be, and the same is hereby amended to read as follows:

39-1310. INFORMATION. Information received by the licensing agency through filed reports, inspection, or as otherwise authorized under this law, which would identify individual residents or patients of facilities or agencies as defined shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, except in a proceeding involving the question of licensure. Public disclosure of information obtained by the licensing agency for the purposes of this act shall be governed by ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. Nothing in this act, however, shall be construed, nor shall any rule or regulation be promulgated under this section, as to impair, restrict or alter the confidentiality and privilege afforded the physician and patient communications, including without limitation, documentation thereof in records of facilities or agencies as defined, or communications to and with nurses or other assisting persons or entities, nor shall this act be construed to amend by implication such physician-patient communication privilege as provided elsewhere in this code, including without limitation section 9-203(4), Idaho Code, which shall remain inviolate.

SECTION 88. That Section 39-1393, Idaho Code, be, and the same is hereby amended to read as follows:

39-1393. NOTIFICATION OF PROFESSIONAL REVIEW ACTION IMPOSED UPON PHYSICIAN OR EMERGENCY MEDICAL SERVICES PERSONNEL. (1) Any health care organization in this state that is by law required to conduct peer review or which voluntarily formally elects to conduct professional review actions shall notify the board of medicine of professional review actions taken against physicians licensed in Idaho required to be reported as provided in this section. Such reports shall be made to the board of medicine within fifteen (15) days of completion of the professional review action by the health care organization. For emergency medical services personnel, such reports shall be made to the department of health and welfare within fifteen (15) days of completion of the professional review action by the health care organization. Such required reports shall be made on forms approved by the board of medicine for reports concerning physicians, or the department of health and welfare for reports concerning emergency medical services personnel, consistent with the reporting requirements of this section. The reporting obligation shall not be stayed by the filing of any court proceeding unless otherwise ordered by the court.

(2) A health care organization in Idaho shall report to the board of medicine if it:

- (a) Takes a professional review action against a physician licensed in Idaho and imposes a sanction of the type included in subsection (3) of this section which lasts longer than thirty (30) days; or

(b) Accepts a voluntary sanction by a physician licensed in Idaho of the type identified in subsection (3) of this section while the physician is under investigation or to avoid investigation by the health care organization relating to the professional competence or professional conduct of the physician or in exchange for the health care organization not conducting such an investigation or initiating a professional review action, if the sanction lasts longer than thirty (30) days.

(3) Professional review action sanctions against a physician which must be reported to the board of medicine pursuant to subsection (2) of this section, whether voluntary or involuntary, shall be:

- (a) Restriction or limitation of privileges;
- (b) Revocation of privileges;
- (c) Suspension of privileges;
- (d) Reduction of privileges;
- (e) Denial of a request for initial privileges;
- (f) Submission to monitoring of the physician's physical or mental condition;
- (g) Submission to monitoring of the physician's delivery of medical services other than to assess and monitor the physician's qualifications for new or additional privileges;
- (h) Surrender of privileges;
- (i) Summary suspension or reduction of privileges lasting longer than thirty (30) days;
- (j) Termination of employment;
- (k) Suspension of employment lasting longer than thirty (30) days.

(4) The reporting requirements of this section shall not apply to:

- (a) Actions based on compliance with medical records or confidentiality requirements of a health care organization;
- (b) Voluntary requests for assistance or monitoring by a physician as part of an educational process to improve physician skills or enhance patient care when unrelated to a professional review action concerning the quality or necessity of patient medical care;
- (c) Voluntary or involuntary revocation, nonrenewal, denial, reduction, restriction, resignation, or limitation of privileges or employment of a physician based upon factors not directly impacting the quality of patient care or safety of practice of the physician;
- (d) Adverse actions taken against a physician by a health care organization that is not required by law to conduct peer review and that has not voluntarily formally elected to conduct professional review actions; and
- (e) The denial of a physician's request for additional privileges or credentials with a health care organization.

(5) The report to the board of medicine required by this section shall include a statement of the quality of care concerns or professional conduct that is the basis of the professional review action or investigation and the reportable professional review action sanction voluntarily accepted or involuntarily imposed.

(6) A health care organization required to report a professional review action concerning a physician to the board of medicine pursuant to this section shall, if requested by the board of medicine, provide to the board the following:

- (a) A statement of the specific quality of care concerns or professional conduct which resulted in the professional review action sanction;
- (b) A statement of the specific professional review action sanction; and
- (c) Any patient care records of the health care organization regarding the care provided by the reported physician. However, the board of medicine may not request or require production of any peer review

records from any person or health care organization, including the identification of which particular patient care records were selected for, or reviewed, examined or discussed in any peer review activity of a health care organization, or the method used by the health care organization to select such patient care records for peer review.

(7) The records lawfully requested by the board of medicine pursuant to subsection (6) of this section shall be provided by the health care organization without a subpoena or court order. If the health care organization fails to comply with the board of medicine's lawful request, the board may petition the district court for an order compelling compliance with the board's request, which shall be granted if disclosure is required by law.

(8) Professional review action sanctions against emergency medical services personnel, whether voluntary or involuntary, which are the result of any action, conduct, or failure to act which is inconsistent with the professionalism and/or standards established in the rules governing emergency medical services personnel as promulgated by the department of health and welfare must be reported to the department of health and welfare.

(9) The report to the department of health and welfare required by this section shall include a statement of the quality of care concerns or professional conduct that is the basis of the professional review action or investigation and the reportable professional review action sanction voluntarily accepted or involuntarily imposed.

(10) Any person or health care organization that provides notification as required by law, or in a good faith belief that such notification is required by law, shall be immune from any civil or other liability arising from providing the notification. Such immunity shall likewise pertain to the provision of files, records and information a health care organization may in good faith provide to the board of medicine pursuant to this section or other applicable law. Such materials provided to the board of medicine shall be subject to disclosure by the board according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, and available only to the board of medicine and its staff unless and until such matter becomes the subject of formal proceedings by or before the board of medicine or authorized by it.

SECTION 89. That Section 39-2812, Idaho Code, be, and the same is hereby amended to read as follows:

39-2812. PESTS -- PUBLIC HEALTH AND WELFARE -- DISASTERS -- EMERGENCIES -- INTERIM ABATEMENT DISTRICTS. (1) To provide for the timely response to an elevated or anticipated pest population that may constitute a risk to public health and welfare, the board of county commissioners of each county of this state, in collaboration with duly recognized local and state officials, and after a public hearing is called for such purpose as a special meeting pursuant to the provisions of section ~~67-2343~~ 74-204 (2), Idaho Code, is hereby granted full power and authority to declare such pests as public health and welfare pests, and to initiate activities to hinder in the potential spread of disease, or adverse economic impact, caused by these pests by taking appropriate steps to intervene in the natural biological cycle of the pests or disease.

(2) Boards of county commissioners are further authorized and empowered, in the event of a disaster or emergency declared by such boards, to make direct appropriations for the purpose of controlling public health and welfare pests as declared pursuant to this section. All moneys raised by direct appropriation shall be placed in a county public health and welfare pest fund, which shall be used exclusively for the control of pests of public health and welfare significance and for payment of all necessary expenses incurred in such control program. In addition, the county may impose an annual property tax assessment pursuant to section 39-2805, Idaho Code, and in accordance with the provisions of sections 63-802 and 63-803, Idaho Code,

for the term of the disaster or emergency or until all expenses incurred during the disaster or emergency have been recovered. Such fund shall be a revolving fund and all moneys returned to the fund under any of the provisions of this chapter shall continue to be available for the operation of the control program.

(3) The disaster or emergency declaration of a pest of public health and welfare significance within a county and subsequent pest management activity shall, except as provided herein, place the whole county into an interim abatement district for administrative purposes for no more than two (2) years. The transition of an interim abatement district into a formally defined abatement district, shall be brought to a vote of the electorate within twenty-four (24) months of the declaration, subject to the notification and establishment requirements provided in this chapter and conducted during a general election held on the first Tuesday following the first Monday in November of even numbered years, and if passed, the district shall be recognized and the provisions of this chapter shall be implemented. If the measure fails, the balance of revolving fund moneys shall be distributed as required by state law. In the event the disaster or emergency exceeds the county's capacity or resources, provisions should be made to request state or federal disaster or emergency funds to address the evolving situation. If the interim abatement district provides the same service as an existing abatement district, the interim abatement district shall exclude any area within an existing abatement district.

SECTION 90. That Section 39-3556, Idaho Code, be, and the same is hereby amended to read as follows:

39-3556. COMPLAINTS. (1) A person who believes that any provision of this chapter has been violated may file a complaint with the certifying agency. Any such complaint shall be subject to the exemption from disclosure set forth in section ~~9-340B~~ 74-105(16), Idaho Code.

(2) The certifying agency shall investigate, or cause to be investigated, any complaint alleging a violation of this chapter or applicable rules. If the certifying agency reasonably believes there has been such a violation, it shall conduct an inspection of the facility.

SECTION 91. That Section 39-3913, Idaho Code, be, and the same is hereby amended to read as follows:

39-3913. CONFIDENTIALITY OF AND ACCESS TO RECORDS. (1) Records developed by the evaluation committee and records contained in court files of judicial proceedings brought under this chapter shall be governed by the provisions of ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

(2) The administrative director of the courts shall compile statistics for each calendar year, accessible to the public, including:

- (a) The total number of petitions filed pursuant to this chapter;
- (b) The number of petitions in which the evaluation committee recommended a procedure and the number of petitions in which the evaluation committee recommended against a procedure;
- (c) The number of petitions granted by the court;
- (d) For categories described in paragraphs (b) and (c) of this subsection, the number of appeals taken from the court's order in each category; and
- (e) For each of the categories set out in paragraph (d) of this subsection, the number of cases for which the district court's order was affirmed and the number of cases for which the district court's order was reversed.

SECTION 92. That Section 39-4411, Idaho Code, be, and the same is hereby amended to read as follows:

39-4411. RECORDS -- REPORTING -- MONITORING. (1) Pursuant to the provisions of section 39-4405, Idaho Code, the board shall adopt, and amend as necessary, such rules relating to records, reporting, and monitoring as may be needed to achieve the purposes of this chapter. These rules may include, but shall not be limited to, prescribing procedures and requirements for:

- (a) The establishment, maintenance, and format of records and reports;
- (b) The submittal of records and reports;
- (c) The taking of samples and the performing of tests and of analyses;
- (d) The use of approved monitoring methods and techniques;
- (e) The installation, calibration, use, and maintenance of monitoring equipment; and
- (f) The provision of relevant information to the department.

(2) Sixty (60) days after promulgation of the criteria and lists specified under section 39-4407, Idaho Code, and the rules required under section 39-4405, Idaho Code, and subsection (1) of this section, the generation, transportation, treatment, storage, or disposal of a hazardous waste in this state by any person without reporting such activity to the department as required by the rules issued pursuant to subsection (1) of this section shall be unlawful.

(3) Information obtained by the department or by agents, contractors, or other representatives of the department, under any provisions of this chapter, shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

(4) Effective January 1, 1996, each generator shall, at the discretion of the director, no later than thirty (30) days after the end of each calendar year submit a written annual report to the department including the following information:

- (a) The types and quantities of hazardous wastes generated;
- (b) The types and quantities of such wastes shipped for treatment and disposal by landfilling or other means of disposal;
- (c) The types and quantities of such wastes remaining in storage at the end of the reporting period;
- (d) Whether such wastes are destined for disposal or treatment in this state or whether such wastes are destined for disposal or treatment outside this state.

(5) Effective January 1, 1996, the operator of each commercial hazardous waste disposal facility or site in the state shall, no later than thirty (30) days after the end of each calendar year, submit a written annual report to the department providing information on the types and quantities of wastes received which were generated in Idaho, and information on the types and quantities of wastes received which were generated in other states.

(6) Prior to March 1 of each year the department shall submit a report to the governor and the legislature detailing the types and quantities of hazardous wastes generated in this state, the types and quantities of such wastes shipped for treatment and disposal by landfilling or other means of disposal, the types and quantities of such wastes remaining in storage at the end of the most recent reporting period and the types and quantities of hazardous waste generated outside this state and shipped into this state for storage or disposal.

SECTION 93. That Section 39-4412, Idaho Code, be, and the same is hereby amended to read as follows:

39-4412. INSPECTIONS -- RIGHT OF ENTRY. (1) All inspections and searches conducted under the authority of this chapter shall be performed

in conformity with the prohibitions against unreasonable searches and seizures contained in the fourth amendment to the constitution of the United States and article I, section 17, of the constitution of the state of Idaho. The state shall not, under the authority granted by this chapter, conduct warrantless administrative searches of private property in the absence of either consent from the property owner or occupier or exigent circumstances such as a public health or environmental emergency.

(2) For the purposes of developing or enforcing any provision of this chapter or any rule or regulation authorized by this chapter, any duly authorized state employee or representative may, upon presentation of appropriate credentials, at any reasonable time:

(a) Enter upon any private or public property where hazardous wastes are or have been generated, transported, treated, stored, or disposed of to inspect and to secure samples of such wastes, their containers, and their labels;

(b) Enter into any aircraft, vehicle, vessel, rail car, trailer, van, or other means of conveyance where hazardous wastes are or have been contained to inspect and to secure samples of such wastes, their containers, and their labels;

(c) Enter any private or public property, or means of conveyance, where records, reports, information or test results relating to the generation, transportation, treatment, storage, or disposal of hazardous wastes exist to inspect and copy such documents.

(3) Upon request by an authorized agent of a property owner or facility operator, the department shall provide the property owner or facility operator with a receipt for samples taken and a copy of sample analysis. Duplicate samples shall similarly be provided upon request if the requesting party agrees to have the samples analyzed and to share the results of the analysis with the department.

(4) The right of entry of a duly authorized state employee or representative shall not be subject to the waiver of any potential tort liability of the facility owner or operator. The right of entry of a duly authorized state or health district employee shall not be subject to any confidentiality requirements other than those specified in section 39-4411(3), Idaho Code, and ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. The right of entry of a private contractor working in a representative capacity for the department may, however, be made subject to additional confidentiality requirements so long as those requirements do not interfere unreasonably with the development of information by the department or the transmission of information from the contractor to the department or the United States environmental protection agency.

(5) Any magistrate or district court judge is authorized to issue an administrative search warrant upon a request from the director describing reasonable cause for issuance of the warrant or the existence of a reasonable program of inspection.

SECTION 94. That Section 39-5211, Idaho Code, be, and the same is hereby amended to read as follows:

39-5211. **QUALIFICATIONS OF APPLICANTS.** To qualify for domestic violence grants under the provisions of this chapter, an applicant must:

(1) Propose to operate and provide an eligible project;

(2) Be a private, nonprofit corporation of the state of Idaho, or a public entity of the state of Idaho;

(3) Provide matching moneys equal to twenty-five percent (25%) of the amount of the grant. The applicant may contribute to or provide the required local matching funds. The value of in-kind contributions and volunteer labor from the community may be computed and included as part of the local matching requirement;

(4) Require persons employed by or volunteering services to the project to maintain the confidentiality of any information that would identify individuals served by the project; such information identifying individuals served by the project shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code;

(5) Require victims to reimburse the project monetarily or through volunteer efforts for services provided as they are able to do so. Minimum reimbursement may be established by the council, with a sliding scale of reimbursement based on the victim's ability to pay;

(6) Provide a policy of nondiscrimination in its admissions and provision of services on the basis of race, religion, gender, color, age, marital status, national origin or ancestry.

SECTION 95. That Section 39-5307, Idaho Code, be, and the same is hereby amended to read as follows:

39-5307. ACCESS TO RECORDS. Any person, department, agency or commission authorized to carry out the duties enumerated in this chapter shall have access to all relevant records, which shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, and shall only be divulged with the written consent of the vulnerable adult or his legal representative. No medical records of any vulnerable adult may be divulged for any purpose without the express written consent of such person or his legal representative, or pursuant to other proper judicial process.

SECTION 96. That Section 39-5403, Idaho Code, be, and the same is hereby amended to read as follows:

39-5403. CONSENT -- FILING AND NOTICE REQUIREMENTS. (1) Artificial insemination shall not be performed upon a woman without her prior written request and consent and the prior written request and consent of her husband.

(2) Whenever a child is born who may have been conceived by artificial insemination, a copy of the request and consent required under subsection (1) of this section shall be filed by the physician who performs the artificial insemination with the state registrar of vital statistics. The state board of health and welfare shall have the authority to promulgate rules and regulations and to prescribe methods and forms of reporting, and fees to carry out the provisions of this act. Storage, retrieval and confidentiality of records shall be governed by ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

(3) The information filed under subsection (2) of this section shall be sealed by the state registrar and may be opened only upon an order of a court of competent jurisdiction, except that pursuant to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, data contained in such records may be used for research and statistical purposes.

(4) If the physician who performs the artificial insemination does not deliver the child conceived as a result of the artificial insemination, it is the duty of the mother and her husband to give that physician notice of the child's birth. The physician who performs the artificial insemination shall not be liable for noncompliance with subsection (2) of this section if the noncompliance is a result of the failure of the mother and her husband to notify the physician of the birth.

SECTION 97. That Section 39-5818, Idaho Code, be, and the same is hereby amended to read as follows:

39-5818. INFORMATION OBTAINED -- PUBLIC RECORD. (1) Except as provided in subsection (2) of this section, information obtained by the



department under the provisions of this chapter shall be deemed to be a public record.

(2) A person regulated under the provisions of this chapter may designate a record, site license application, other information, or a portion of a record, site license application, or other information furnished to or obtained by the department or its agents, as being only for the use of the department and the panel. The material shall then be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 98. That Section 39-7408B, Idaho Code, be, and the same is hereby amended to read as follows:

39-7408B. SITE REVIEW PANELS -- MEMBERS, CHAIRMAN, QUORUM, MEETINGS, STAFF. (1) A site review panel shall be established to insure public input in the licensing process, to recommend to the director conditions which should be included in a siting license and to recommend to the director whether a particular facility should or should not be constructed, expanded or enlarged.

(2) A panel shall consist of eight (8) members to be appointed as follows:

(a) Three (3) members shall be the director of the department of environmental quality or his designee, the director of the Idaho transportation department or his designee and the director of the department of water resources or his designee.

(b) One (1) member shall be a public member appointed by the governor. The public member shall be an environmental professional, shall serve as chairman of the panel and shall be a voting member. A member who is a public member shall be appointed to serve on site review panels only until the particular siting license application subject to their review is approved, or until the application is rejected and is no longer subject to their review.

(c) Two (2) members shall be appointed by the city council of the city located closest to or in which the commercial solid waste facility is proposed to be located, at least one (1) of whom shall be a resident of the city. The members serving pursuant to this subsection shall serve until the particular siting license application subject to their review is approved, or until the application is rejected and is no longer subject to their review.

(d) Two (2) members shall be appointed by the county commission and be residents of the county where the commercial solid waste facility is proposed to be located. The members serving pursuant to this subsection shall serve until the particular siting license application subject to their review is approved, or until the application is rejected and is no longer subject to their review.

(e) A person nominated to represent a city or county shall not have a conflict of interest, as that term is defined in section 59-703 74-403, Idaho Code, or derive any economic gain as that term is defined in section 59-703 74-403, Idaho Code, from the location or siting of the proposed commercial solid waste facility.

(3) The director shall notify the city council of the nearest city and the board of county commissioners of a siting license application filed with the department, and shall instruct the city and county to appoint the necessary members to a panel.

(4) Five (5) of the eight (8) members of the panel shall constitute a quorum for the transaction of business of the panel and the concurrence of five (5) members of the panel shall constitute a legal action of the panel, provided that no meeting of the panel shall occur unless there are at least as many members present representing the city and county as there are representing the state and the public as appointed pursuant to subsections (2) (a)

and (b) of this section. All meetings of the panel shall be conducted pursuant to the state open meeting law.

(5) The director shall make staff available to assist a panel in carrying out its responsibilities.

(6) Members of the panel who are not state employees shall be entitled to receive compensation as provided in section 59-509(b), Idaho Code.

SECTION 99. That Section 39-7908, Idaho Code, be, and the same is hereby amended to read as follows:

39-7908. SITE REVIEW PANELS ESTABLISHED. (1) A site review panel shall be established to ensure public input in the siting process and to recommend to the director site approval, approval with conditions or rejection.

(2) A panel shall consist of eight (8) members to be appointed as follows:

(a) Three (3) members shall be the director of the department of environmental quality or his designee, the director of the department of water resources or his designee, and the director of the department of agriculture or his designee.

(b) One (1) member shall be a public member appointed by the governor. The public member shall be an environmental professional, shall serve as chairman of the panel and shall be a voting member. A member who is a public member shall be appointed to serve on site review panels only until the particular site application subject to their review is approved, or until the application is rejected and is no longer subject to their review.

(c) Two (2) members shall be appointed by the city council of the city located closest to, or in which the swine facility is proposed to be located or expanded, provided the governing body of the city has signified compliance with this chapter as provided in section 39-7903, Idaho Code. At least one (1) shall be a resident of the city. However, if two (2) cities are equidistant from the proposed or expanding swine facility, plus or minus five (5) miles, the city council of each city shall appoint one (1) member each to the site review panel, each of whom shall be a resident of the city appointing them. The members serving pursuant to this subsection shall serve until the particular site application subject to their review is approved or it is rejected and is no longer subject to their review.

(d) Two (2) members shall be appointed by the county commission and be residents of the county where the swine facility is proposed to be located or expanded, provided the board of county commissioners has signified compliance with this chapter as provided in section 39-7903, Idaho Code. The members serving pursuant to this subsection shall serve until the particular site application subject to their review is approved, or until the application is rejected and is no longer subject to their review.

(e) A person nominated to represent a city or county shall not have a conflict of interest, as that term is defined in section 59-703 74-403, Idaho Code, or derive any economic gain as that term is defined in section 59-703 74-403, Idaho Code, from the location of the proposed or expanding swine facility.

(3) The director shall notify the city council of the nearest city, or cities if two (2) cities are within five (5) miles of the site of the proposed facility, and the board of county commissioners in which the site is located, of a site application filed with the department and shall instruct the city or cities and county to appoint the necessary members to a panel.

(4) A majority of members of the panel shall constitute a quorum for the transaction of business of the panel and the concurrence of a majority of the panel shall constitute a legal action of the panel, provided that no meeting

of the panel shall occur unless there are at least as many members present representing the city and county as there are representing the state and the public as appointed pursuant to subsections (2) (a) and (b) of this section. All meetings of the panel shall be conducted pursuant to the state open meeting law.

(5) The director shall make staff available to assist the panel in carrying out its responsibilities.

(6) Members of the panel who are not state employees shall be entitled to receive compensation as provided in section 59-509(b), Idaho Code.

SECTION 100. That Section 39-7914, Idaho Code, be, and the same is hereby amended to read as follows:

39-7914. CONFIDENTIALITY OF RECORDS. Information obtained by a public agency pursuant to this chapter or its associated rules is subject to public disclosure pursuant to the provisions of ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. Information submitted under a trade secret claim may be entitled to confidential treatment as provided in section ~~9-342A~~ 74-114, Idaho Code, and rules of the department of environmental quality.

SECTION 101. That Section 39-8206, Idaho Code, be, and the same is hereby amended to read as follows:

39-8206. CLAIM OF PARENTAL RIGHTS -- PROCEDURE. (1) A parent of the child may make a claim of parental rights of an abandoned child, abandoned pursuant to the provisions of this chapter, by filing a notice of claim of parental rights with the vital statistics unit of the department of health and welfare. The vital statistics unit of the department of health and welfare shall maintain an abandoned child registry for this purpose which shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. The department shall provide forms for the purpose of filing a claim of parental rights, and the forms shall be made available through the vital statistics unit of the Idaho department of health and welfare and in the office of the county clerk in every county of this state. Any parent claiming a parental right of an abandoned child, abandoned pursuant to the provisions of this chapter, shall file the form with the vital statistics unit of the department of health and welfare. The form must be filled out completely and provide the name and address for service of the person asserting the parental claim and set forth the approximate date the child was left in a safe haven. The form must be signed by the person claiming the parental right and be witnessed before a notary public. The department shall record the date and time the claim of parental rights is filed with the department. The claim shall be deemed to be duly filed with the department as of the date and time recorded on the claim by the department. To be valid, a claim of parental rights must be filed before an order terminating parental rights is entered by the court. A parent that fails to file a claim of parental rights prior to entry of an order terminating their parental rights is deemed to have abandoned the child and waived and surrendered any right in relation to the child, including the right to notice of any judicial proceeding in connection with the termination of parental rights or adoption of the child. Registration of notice of commencement of paternity proceedings pursuant to chapter 15, title 16, Idaho Code, shall not satisfy the requirements of this section.

(2) Prior to the time set for hearing on the petition to terminate parental rights filed by the department of health and welfare, and prior to entry of an order terminating parental rights by the court, the department of health and welfare shall obtain and file with the court a certificate from the vital statistics unit of the department of health and welfare, signed by the state registrar of vital statistics, which certificate shall state that

a diligent search has been made of the registry of claims of parental rights of abandoned children, abandoned pursuant to this chapter, and shall set forth the results of that search.

(3) If a claim of parental rights is made before an order terminating parental rights is entered by the court, notice pursuant to section 16-2007, Idaho Code, will be required and the court shall hold the action for involuntary termination of parental rights in abeyance for a period of time not to exceed sixty (60) days unless otherwise ordered by the court. During that period:

(a) The court shall order genetic testing to establish maternity or paternity, at the expense of the person or persons claiming the parental right.

(b) The department of health and welfare shall conduct an investigation pursuant to section 16-2008, Idaho Code, and in those cases where a guardian ad litem has been appointed, the guardian ad litem shall have all rights, powers and duties as provided for in chapter 16, title 16, Idaho Code, and as provided for in chapter 20, title 16, Idaho Code.

(c) When indicated as a result of the investigation, a shelter care hearing shall be conducted by the court in accordance with section 16-1615, Idaho Code, within forty-eight (48) hours, or at an earlier time if ordered by the court, to determine whether the child should remain in the physical custody of the department or be released to a parent or other third party.

(d) Further proceedings shall be conducted as the court determines appropriate. However, where a claim of parental rights is made before an order terminating parental rights is entered by the court, a parent shall not be found to have neglected or abandoned a child placed in accordance with this chapter solely because the child was left with a safe haven.

(4) If there is no showing that a parent has claimed a parental right to the child, the department of health and welfare shall file with the court a certificate from the vital statistics unit of the department of health and welfare, signed by the state registrar of vital statistics, stating that a diligent search has been made of the registry of parental claims for children abandoned pursuant to the provisions of this chapter and that no parental claim has been made. The certificate shall be filed with the court prior to the entrance of the final order of termination of parental rights.

SECTION 102. That Section 40-1306C, Idaho Code, be, and the same is hereby amended to read as follows:

40-1306C. HIGHWAY DISTRICT RECORDS -- OPEN TO THE PUBLIC. All records of the highway district are open to the public, except as provided by law. With respect to highway district records, ~~sections 9-337 through 9-351~~ chapter 1, title 74, Idaho Code, provides definitions, procedure for the right to examine, requests for the examination, records exempt from disclosure, copy fees, separation of exempt and nonexempt records, enforcement rights, court orders and penalties.

SECTION 103. That Section 40-1309, Idaho Code, be, and the same is hereby amended to read as follows:

40-1309. CORPORATE POWERS OF HIGHWAY DISTRICTS. Each highway district has power:

(1) To sue and be sued.

(2) To purchase and hold lands, make contracts, purchase and hold personal or real property as may be necessary or convenient for the purposes of this chapter, and to sell and exchange any real or personal property other than public lands which by the constitution and laws of the state are placed

under the jurisdiction of the state land board. Personal or real property, no longer useful to the district, not exceeding five thousand dollars (\$5,000) in value may be sold by the highway commissioners at a private sale or at any regular board meeting without advertisement. Before disposing of all other personal or real property exceeding five thousand dollars (\$5,000) in value, the highway district commissioners shall first conduct a public hearing for which notice shall be published in accordance with the provisions of section 40-206, Idaho Code, and at which hearing any person interested may appear and show cause that such personal or real property is still useful to the district and that the sale or exchange should not be made. Following testimony by all interested persons at the public hearing, the highway district commissioners may adopt a resolution finding that such personal or real property is no longer useful to the district and finding that such personal or real property should be sold or exchanged and establishing procedures for the sale of such personal or real property including, but not limited to, the date and time of the sale and whether the sale will be by live public auction, by receipt of sealed bids or by some other reasonably commercial means. The hearing and sale or exchange shall not be conducted at the same regular meeting and, except as otherwise provided by law, the only notice required for such sale or exchange shall be as set forth in section ~~67-2343~~ 74-204, Idaho Code. Provided however, that before the district disposes of surplus real property at public sale, the district shall first notify any person who owns real property that is contiguous with the surplus real property of the district that such person has first option to purchase the surplus real property for an amount not less than the current appraised value. If more than one (1) adjoining owner wants to purchase the surplus real property, a private auction shall be held for such parties. If no owner of adjoining property exercises his or her option to buy, the district may proceed to public sale. Highway district commissioners, highway directors, employees, and their families must be personally disinterested, directly or indirectly, in the purchase of property for the use of the highway district, or in the sale of any property belonging to the highway district, or in any contract made by the highway district or other person on behalf of the highway district unless otherwise authorized by law.

(3) To levy and apply ad valorem taxes for purposes under its exclusive jurisdiction as are authorized by law.

SECTION 104. That Section 40-2004, Idaho Code, be, and the same is hereby amended to read as follows:

40-2004. RELOCATION EXPENSE -- COMPENSATION OPTIONS -- LIMIT OF COMPENSATION FOR BUSINESS OR FARM RELOCATIONS. (1) As a part of the cost of any public program or project, any agency using any funds for public purposes shall compensate a displaced person for his actual and reasonable expense in moving himself, family, business or farm operation, including moving personal property, and for any actual direct losses of tangible personal property as the result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate the property, as determined by the agency, and for actual reasonable expenses in searching for a replacement business or farm. However, the compensation authorized by this section for actual and reasonable moving expenses, actual direct losses of tangible personal property, and expenses in searching for a replacement farm or business shall be limited to relocating a displaced person, family, business or farm operation within a reasonable distance from the location previously occupied and from which the displaced person has been required to move.

(2) Any displaced person who moves from a dwelling who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (1) of this section shall receive a moving expense al-

lowance, determined according to regulations and schedules established by the agency, not to exceed three hundred dollars (\$300), and in addition a dislocation allowance of two hundred dollars (\$200).

(3) Any displaced person who moves or discontinues his business or farm operation who elects to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (1) of this section, shall receive a fixed relocation payment in an amount equal to the average annual net earnings of the business or farm operation, except that the payment shall not be less than two thousand five hundred dollars (\$2,500) nor more than ten thousand dollars (\$10,000). In the case of a business, no payment shall be made under this subsection unless the agency is satisfied that the business cannot be relocated without a substantial loss of patronage, and is not a part of a commercial enterprise having at least one (1) other establishment not being acquired which is engaged in the same or similar business. In addition to the other requirements of this chapter, to be eligible for the payment authorized by this subsection the business or farm operation must make its financial statements, accounting records, and state income tax returns available to the agency for audit for confidential use in determining the payment or payments authorized by this subsection. Such financial statements, accounting records and state income tax returns shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

(4) If any agency determines that property, contiguous with property acquired, owned or occupied by an individual, family, business or farm operation, has been damaged as the result of a public program or project, it shall offer the individual, family, business or farm operation the same compensation as it might offer to a displaced person under subsection (1), (2) or (3) of this section and under sections 40-2005 and 40-2007, Idaho Code.

SECTION 105. That Section 41-227, Idaho Code, be, and the same is hereby amended to read as follows:

41-227. EXAMINATION REPORT. (1) The director or his examiner shall make a full and true written report of every examination made by him under this chapter, and shall verify the report by his oath.

(2) The report shall comprise only facts appearing upon the books, papers, records or documents of the person being examined, or ascertained from testimony of individuals under oath concerning the affairs of such person, together with such conclusions and recommendations as may reasonably be warranted from such facts.

(3) Prior to a hearing and prior to any modifications the report shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

(4) No later than sixty (60) days following completion of the examination, the examiner in charge shall file with the department a verified written report of examination under oath. Upon receipt of the verified report, the department shall transmit the report to the company examined, together with a notice which shall afford the company examined a reasonable opportunity of not more than thirty (30) days to make a written submission or rebuttal with respect to any matters contained in the examination report.

(5) Within thirty (30) days of the end of the period allowed for the receipt of written submissions or rebuttals, the director shall fully consider and review the report, together with any written submissions or rebuttals and any relevant portions of the examiner's work papers, and enter an order:

(a) Adopting the examination report as filed or with modifications or corrections. If the examination report reveals that the company is operating in violation of any law, regulation or prior order of the director, the director may order the company to take any action the director considers necessary and appropriate to cure such violation;

(b) Rejecting the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation or information, and refileing pursuant to subsection (2) of this section; or

(c) Calling for an investigatory hearing with no less than twenty (20) days' notice to the company for purposes of obtaining additional documentation, data, information and testimony.

(6) (a) All orders entered pursuant to subsection (5) (a) of this section shall be accompanied by findings and conclusions resulting from the director's consideration and review of the examination report, relevant examiner work papers and any written submissions or rebuttals. Any such order shall be considered a final order and may be appealed pursuant to sections 67-5270 through 67-5279, Idaho Code, and shall be served upon the company by certified mail, together with a copy of the adopted examination report. Within thirty (30) days of the issuance of the adopted report, the company shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.

(b) Any hearing conducted under subsection (5) (c) of this section by the director or authorized representative, shall be conducted in accordance with the provisions of chapter 52, title 67, Idaho Code, as a nonadversarial confidential investigatory proceeding as necessary for the resolution of any inconsistencies, discrepancies or disputed issues apparent upon the face of the filed examination report or raised by, or as a result of, the director's review of relevant work papers or by the written submission or rebuttal of the company. Within twenty (20) days of the conclusion of any such hearing, the director shall enter an order pursuant to the provisions of subsection (5) (a) of this section.

(c) The director shall not appoint a contract examiner or an employee of the department as an authorized representative to conduct the hearing. Nothing contained in this section shall require the department to disclose any information or records which would indicate or show the content of any investigation or activity of a criminal justice agency, except to the extent that the director relied upon information furnished to the director by such criminal justice agency in making his decision.

(7) The report when so verified and filed shall be admissible in evidence in any action or proceeding brought by the director against the person examined, or against its officers, employees or agents, and shall be presumptive evidence of the material facts stated therein. The director or his examiners may at any time testify and offer other proper evidence as to information secured or matters discovered during the course of an examination, whether or not a written report of the examination has been either made, furnished or filed in the department.

(8) After an order is entered under the provisions of subsection (5) (a) of this section, the director may publish the report or the results of the examination as contained therein which report or results are a public record and shall be exempt from the exemptions from disclosure provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

(9) Nothing contained in this chapter shall prevent or be construed as prohibiting the director from disclosing the content of an examination report, preliminary examination report or results, or any matter relating thereto, to the insurance department of this or any other state or country, or to law enforcement officials of this or any other state or agency of the federal government at any time, so long as the agency or office receiving the report or matters relating thereto agrees in writing to hold it confidential and in a manner consistent with this chapter.

(10) All working papers, recorded information, documents and copies thereof produced by, obtained by or disclosed to the director or any other

person in the course of an examination made under the provisions of this chapter shall be made available to the person or company which was the subject of the examination in proceedings pursuant to chapter 52, title 67, Idaho Code, but shall otherwise be held by the director as a record not required to be made public pursuant to exemptions from disclosure provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 106. That Section 41-249, Idaho Code, be, and the same is hereby amended to read as follows:

41-249. SHARING OF INFORMATION AMONG GOVERNMENTAL AGENCIES AND THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS. (1) Any document, report, or other recorded information provided to the director by any federal, state or foreign regulatory or law enforcement agency, or any combination thereof, or by the national association of insurance commissioners (NAIC), which is marked "confidential" or "for regulator use only" or by similar terms or concerning which the entity requires written assurance that the director maintain such information in confidence before the entity will release the information, may be maintained by the director on a confidential basis and is not required to be disclosed to the public.

(2) The director may provide any document, report, or other recorded information to any federal, state or foreign regulatory or law enforcement agency, or any combination thereof, or to the NAIC, which is marked "confidential" or "for regulator use only" or by similar terms or concerning which the director requires written assurance that the entity maintain such information in confidence before he will release it to such entity.

(3) The director is authorized to enter into agreements with other governments, agencies, or any combination thereof, or with the NAIC, in connection with his duties and responsibilities pursuant to this section.

(4) The application of this section shall not prevent an insurance company or producer or other licensee from obtaining information used by the department of insurance in making regulatory decisions or taking regulatory action affecting the company consistent with ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, and title 41, Idaho Code.

SECTION 107. That Section 41-296, Idaho Code, be, and the same is hereby amended to read as follows:

41-296. CONFIDENTIALITY -- COMPULSORY TESTIMONY. (1) The department of insurance, state fire marshal or authorized agency described in section 41-291, Idaho Code, which has received any information furnished pursuant to section 41-258, 41-290 or 41-292, Idaho Code, shall hold the information and the information shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

(2) Any authorized agency referred to in section 41-291, Idaho Code, or their personnel, may be required to testify in any litigation in which the insurance company at interest is named as a party, if such testimony is not otherwise privileged by law.

SECTION 108. That Section 41-335, Idaho Code, be, and the same is hereby amended to read as follows:

41-335. ANNUAL STATEMENT. (1) Each authorized insurer shall annually on or before March 1, or within any extension of time therefor, not to exceed thirty (30) days, which the director for good cause may have granted, file with the director a full and true statement of its financial condition, transactions and affairs as of the preceding December 31. Unless otherwise required by the director, the statement is to be prepared in accordance with the national association of insurance commissioners' (NAIC) annual state-



ment instructions and the NAIC's accounting practices and procedures manual, utilizing the version of the manual effective January 1, 2004, and any subsequent revisions that are adopted for use by the director by rule, administrative order or bulletin, and is to be submitted on the NAIC annual statement blank form, and any statement, form or other information relating to the compensation of any officer, director or employee will be deemed confidential. At the seasonable request of a domestic insurer the director shall furnish to the insurer the blank form of annual statement to be used by it. The statement shall be verified by the oath of the insurer's president or vice president, and secretary or actuary as applicable, or if a reciprocal insurer, by the oath of the attorney in fact or its like officers if a corporation.

(2) The statement of an alien insurer shall be verified by its United States manager or other officer duly authorized, and shall relate only to the insurer's transactions and affairs in the United States unless the director requires otherwise. If the director requires a statement as to the insurer's affairs throughout the world, the insurer shall file such statement with the director as soon as reasonably possible.

(3) Any insurance company licensed to do business in this state which neglects to file or fails to file in the time prescribed by statute its annual statement or supplemental summary statement requested by the director shall be subject to a penalty of twenty-five dollars (\$25.00) per day for each day in default. This penalty will be in addition to any administrative penalty which may be assessed pursuant to sections 41-327 and 41-324, Idaho Code.

(4) Each domestic insurer authorized to do business in this state shall annually, on or before March 1 of each year, file with the NAIC its annual financial statement in a form prescribed by the director along with any additional filings prescribed by the director for the preceding year. The information filed with the NAIC shall be in the same format and scope as that required by this code. Any amendments or addenda to the annual statement shall also be filed with the NAIC.

(5) At time of filing, the insurer shall pay to the director the fee for filing its statement as prescribed by rule of the department of insurance.

(6) The financial statements filed with the director pursuant to this section, with the exception of information relating to officer, director, or employee compensation referred to in subsection (1) of this section, are public records and available to the public, notwithstanding the exemptions from disclosure provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 109. That Section 41-1019, Idaho Code, be, and the same is hereby amended to read as follows:

41-1019. NOTIFICATION TO DIRECTOR OF TERMINATION. (1) An insurer or authorized representative of the insurer that terminates the appointment, employment, contract or other insurance business relationship with a producer shall notify the director within thirty (30) days following the effective date of the termination, using a format prescribed by the director, if the reason for termination is one of the reasons set forth in section 41-1016, Idaho Code, or the insurer has knowledge that the producer was found by a court, governmental body or self-regulatory organization authorized by law to have engaged in any of the activities set forth in section 41-1016, Idaho Code. Upon the written request of the director, the insurer shall provide additional information, documents, records or other data pertaining to the termination or activity of the producer.

(2) An insurer or authorized representative of the insurer that terminates the appointment, employment, contract or other insurance business relationship with a producer for any reason not set forth in section 41-1016, Idaho Code, shall notify the director within thirty (30) days following the

effective date of the termination, using a format prescribed by the director. Upon written request of the director, the insurer shall provide additional information, documents, records or other data pertaining to the termination.

(3) The insurer or authorized representative of the insurer shall promptly notify the director in a format acceptable to the director if, upon further review or investigation, the insurer discovers additional information that would have been reportable to the director in accordance with subsection (1) of this section.

(4) A copy of any notification shall be provided to the producer as follows:

(a) Within fifteen (15) days after making the notification required by subsections (1), (2) and (3) of this section, the insurer shall mail a copy of the notification to the producer at his or her last known address. If the producer is terminated for cause for any other reasons listed in section 41-1016, Idaho Code, the insurer shall provide a copy of the notification to the producer at his or her last known address by certified mail, return receipt requested, postage prepaid or by overnight delivery using a nationally recognized carrier.

(b) Within thirty (30) days after the producer has received the original or additional notification, the producer may file written comments concerning the substance of the notification with the director. The producer shall, by the same means, simultaneously send a copy of the comments to the reporting insurer, and the comments shall become a part of the director's file and shall accompany every copy of a report distributed or disclosed for any reason about the producer as permitted under subsection (6) of this section.

(5) Immunities.

(a) In the absence of actual malice, an insurer, the authorized representative of the insurer, a producer, the director, or an organization of which the director is a member and that compiles information and makes it available to other insurance directors or regulatory or law enforcement agencies, shall not be subject to civil liability, and a civil cause of action of any nature shall not arise against these entities or their respective agents or employees as a result of any statement or information required by or provided pursuant to this section or any information relating to any statement that may be requested in writing by the director from an insurer or producer or as a result of any statement by a terminating insurer or producer to an insurer or producer limited solely and exclusively to whether a termination for cause under subsection (1) of this section was reported to the director, provided that the propriety of any termination for cause under subsection (1) of this section is certified in writing by an officer or authorized representative of the insurer or producer terminating the relationship.

(b) In any action brought against a person that may have immunity under paragraph (a) of this subsection for making any statement required by this section or providing any information relating to any statement that may be requested by the director, the party bringing the action shall plead specifically in any allegation that paragraph (a) of this subsection does not apply because the person making the statement or providing the information did so with actual malice.

(c) Paragraph (a) or (b) of this subsection shall not abrogate or modify any existing statutory or common law privileges or immunities.

(6) Confidentiality.

(a) Any documents, materials or other information obtained by the director in an investigation pursuant to this section shall be exempt from public disclosure under ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

(b) In order to assist in the performance of the director's duties under this chapter, the director:

(i) May share documents, materials or other information, including confidential and privileged documents and materials or information subject to paragraph (a) of this subsection, with other state, federal and international regulatory agencies and law enforcement authorities, and with the national association of insurance commissioners, its affiliates or subsidiaries, provided that the recipient agrees to maintain the confidentiality and privileged status of the documents, materials or other information;

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

(iii) May enter into agreements governing sharing and use of information consistent with this subsection.

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

(d) Nothing in this chapter shall prohibit the director from releasing final adjudicated actions, including for cause terminations that are open to public inspection pursuant to ~~chapter 3, title 9~~ chapter 1, title 74 and title 41, Idaho Code, to a database or other clearinghouse service maintained by the national association of insurance commissioners or its affiliates or subsidiaries.

(7) Penalties for failing to report. An insurer, the authorized representative of the insurer, or a producer who fails to report as required under the provisions of this section or who is found by a court of competent jurisdiction to have reported with actual malice may, after notice and hearing, have his license or certificate of authority suspended or revoked and may be fined in accordance with section 41-1016 or 41-327, Idaho Code.

SECTION 110. That Section 41-1440, Idaho Code, be, and the same is hereby amended to read as follows:

41-1440. HEARINGS. (1) Any person aggrieved by any rate charged, rating plan, rating system, or underwriting rule followed or adopted by an insurer or rating organization may himself or by his authorized representative make written request of the insurer or rating organization to review the manner in which the rate, plan, system, or rule has been applied with respect to insurance afforded him. If the request is not granted within thirty (30) days after it is made, the requestor may treat it as rejected. Any person aggrieved by the refusal of an insurer or rating organization to grant the review requested, or by the failure or refusal to grant all or part of the relief requested, may file a written complaint and request for hearing with the director, specifying the grounds relied upon. If the director has already disposed of the issue as raised by a similar complaint, he may deny the hearing. If the director believes that probable cause for the complaint does not exist or that the complaint is not made in good faith, he shall deny the hearing. Otherwise, and if he also finds that the complaint charges a violation

of this chapter and that the complainant would be aggrieved if the violation is proven, he shall proceed as provided in subsection (2) of this section.

(2) If after examination of an insurer, rating organization, advisory organization, or group, association or other organization of insurers which engages in joint underwriting or joint reinsurance, or upon the basis of other information, or upon sufficient complaint as provided in subsection (1) of this section, the director has good cause to believe that such insurer, organization, group or association, or any rate, rating plan or rating system made or used by any such insurer or rating organization, does not comply with the requirements and standards of this chapter applicable to it, he shall, unless he has good cause to believe such noncompliance is willful, give notice in writing to such insurer, organization, group or association stating therein in what manner and to what extent noncompliance is alleged to exist and specifying therein a reasonable time, not less than ten (10) days thereafter, in which the noncompliance may be corrected. Notices under this section shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, unless a hearing is held under subsection (3) of this section.

(3) If the director has good cause to believe that such noncompliance is willful, or if within the period prescribed by the director in the notice required by subsection (2) of this section, the insurer, organization, group or association does not make such changes as may be necessary to correct the noncompliance specified by the director or establish to the satisfaction of the director that such specified noncompliance does not exist, then the director may hold a public hearing in connection therewith in accordance with chapter 2, title 41, Idaho Code. If no notice has been given as provided in subsection (2) of this section, the notice shall state in what manner and to what extent noncompliance is alleged to exist. The hearing shall not consider any subject not specified in the notice required by subsection (2) of this section.

(4) If after a hearing pursuant to subsection (3) of this section, the director finds:

(a) That any rate, rating plan or rating system violates the applicable provisions of this chapter, he may issue an order to the insurer, or rating organization, group or association which has been the subject of the hearing specifying in what respects such violation exists and requiring compliance within a reasonable time thereafter.

(b) That an insurer, rating organization, advisory organization, or a group, association or other organization of insurers which engages in joint underwriting or joint reinsurance, is in violation of the applicable provisions of this chapter other than the provisions dealing with rates, rating plans or rating systems, he may issue an order to such insurer, organization, group or association which has been the subject of the hearing specifying in what respects such violation exists and requiring compliance within a reasonable time thereafter.

(c) That any such violation by an insurer or rating organization which has been the subject of hearing was willful, he may suspend or revoke, in whole or in part, the certificate of authority of such insurer or the license of such rating organization with respect to the class of insurance which has been a subject of the hearing.

(d) That any rating organization has willfully engaged in any fraudulent or dishonest act or practice, he may suspend or revoke, in whole or in part, the license of such organization in addition to any other penalty provided in this chapter.

(5) Except as otherwise provided in this chapter, all proceedings in connection with the denial, suspension or revocation of a license or certificate of authority shall be conducted in accordance with the provisions of chapters 2 and 3, title 41, Idaho Code, and the director shall have all the powers granted to him therein.

SECTION 111. That Section 41-2710, Idaho Code, be, and the same is hereby amended to read as follows:

41-2710. REQUIREMENTS FOR AGENTS. (1) A title insurance agent is a person owning or leasing separately or with another licensed agent a complete set of tract indexes and abstract records of each county for which policies are written and authorized in writing by a title insurer to solicit insurance, issue or countersign policies, or otherwise engage in the title insurance business. A title insurer shall not allow or permit any person, firm, association or corporation to act as its agent in relation to the issuance of any certificate, title insurance policy, or other underwriting contract unless such person, firm, association or corporation shall first have obtained a title insurance agent's license for each county for which policies are to be written from the director of the department of insurance. No person, firm, association or corporation shall act within this state as such agent for any title insurer without first having obtained a license from the director of insurance and filed a bond or cash deposit in lieu thereof as required herein.

(2) A separate agent's license for each county shall be issued by the director of the department of insurance upon due showing filed by the applicant upon forms to be provided by the director of the department of insurance and payment of a fee of fifty dollars (\$50.00), upon oath, that such applicant if an individual, is a bona fide resident of Idaho, if a firm or association is composed wholly of Idaho residents, or if a corporation is duly authorized or qualified to do business in the state, that the individual agent (or if a corporation or association, its managerial personnel who are going to exercise the license privilege) has reasonable experience or instruction in the field of title examinations and title insurance and the insurance laws of Idaho, that the applicant owns or leases, separately or with another, and maintains an adequate, complete set of tract indexes and abstract records of each county wherein he proposed to do business, and such application shall be endorsed by the title insurer with whom he proposed to do business that the proposed agent is known to have a good reputation and is worthy of public trust and that such title insurer knows of no fact or condition that would disqualify the agent from receiving the permit. An agent's license shall continue from the date issued until the first day of January of each year and shall be automatically renewed thereon upon the payment of the annual fee of fifty dollars (\$50.00) by the agent, unless terminated as herein provided by the director of the department of insurance for cause. If the filing fee is not promptly paid, the applicant shall be subject to a late filing fee of two dollars (\$2.00) a day up to a maximum of one hundred dollars (\$100).

(3) Upon the termination of any agency by a title insurer or by the agent terminating, the title insurer shall immediately notify the director of the department of insurance in writing and a title insurance agent shall forthwith notify the director of the department of insurance of the name of a new title insurer with whom he proposes to do business, with the new title insurer's endorsement upon said notification. No title insurer shall allow the license of an agent for which it has vouched to continue unless all of the foregoing conditions have been complied with.

(4) The license of any title insurance agent may be denied, or the license suspended, revoked or renewal thereof refused, by the director of the department of insurance after notice and hearing if he finds that such license holder has:

- (a) Willfully violated any provisions of title 41, Idaho Code, or the rules issued thereunder;
- (b) Has intentionally made a material misstatement in the application for such license;
- (c) Has obtained or attempted to obtain such license by fraud or misrepresentation;

(d) Has misappropriated or converted to his own use or illegally withheld money belonging to a title insurance company, an insured or any other person;

(e) Has demonstrated his lack of trustworthiness or competence to act as such agent or been guilty of fraudulent or dishonest practices;

(f) Has materially misrepresented the terms and conditions of a title insurance policy or contract, or the condition of the title represented thereby; or

(g) Has failed to maintain a separate and distinct accounting of escrowed funds and has failed to maintain an escrow bank account or account separate and apart from all other accounts.

(5) Before any license is denied, suspended or revoked or renewal refused, the director shall give thirty (30) days' written notice by registered mail to the licensee or applicant and the title insurer represented by the agent, and if said agent or title insurer desires, to set a date of hearing and to allow the production of evidence by said parties or any other interested person as to the matter. The right and remedies of the parties shall be as set forth in chapter 52, title 67, Idaho Code. Any decision of the director of the department of insurance shall be made in writing and filed in his office and mailed to the title insurer and agent involved.

(6) As a condition of obtaining said license, the individual to be licensed for himself or the entity to be licensed for each employee escrow officer shall obtain, file and pay for a surety bond as provided for an escrow officer.

(7) Regular examination of the tract indexes, abstract records, and any other records to ascertain compliance with title 41, Idaho Code, and related rules, of a title agent after the first examination thereof by the director shall be limited to not more than every fifth year, unless the agent otherwise requests or the director has cause to believe the same does not comply with this chapter or the rules thereunder. The director shall prepare an examination report following each examination and shall provide such report to the title agent being examined affording the person up to twenty-eight (28) days within which to review, comment and request a hearing. Unless a hearing is requested in accordance with chapter 2, title 41, Idaho Code, the examination report shall be deemed available to the public notwithstanding the exemptions from disclosure provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. In addition, if the title agency affirmatively requests, any reply to the examination report shall be deemed available to the public notwithstanding the exemptions from disclosure provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. However, all working papers and other records produced by, obtained by or disclosed to the director or any other person in the course of an examination hereunder shall be made available to the person or company which was the subject of the examination in any proceeding pursuant to chapter 2, title 41, Idaho Code, but shall otherwise be held by the director as an exempt record not required to be made public.

SECTION 112. That Section 41-3311, Idaho Code, be, and the same is hereby amended to read as follows:

41-3311. HEARINGS. In all proceedings and judicial reviews thereof under sections 41-3309 and 41-3310, Idaho Code, all records of the insurer, other documents, and all insurance department files and court records and papers, so far as they pertain to or are a part of the record of the proceedings, shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 113. That Section 41-4011, Idaho Code, be, and the same is hereby amended to read as follows:

41-4011. RECORDS AND ACCOUNTS -- ANNUAL STATEMENT. (1) The trustee of a self-funded plan shall cause full and accurate records and accounts to be entered and maintained during all times of the existence of the trust covering all financial transactions and affairs of the trust fund, which records and accounts shall be subject to review by the director. Any audit of the plan or trust shall be completed independently of any other entity.

(2) Within ninety (90) days after close of a fiscal year of the plan, the trustee shall prepare an annual statement in writing summarizing the financial transactions of the trust fund for such fiscal year and the financial condition of the trust at the end of such year in accordance with the requirements of this chapter and with generally accepted accounting principles. The statement shall be in a form acceptable to the director and include such information as prescribed by the director. The financial information included therein shall be certified by the accountant who audited such information. The trustee shall promptly deliver a copy of the statement to each employer or postsecondary educational institution participating in the plan and keep a copy thereof on file in the business office from which the plan is operated. Such statement shall be available for review by any beneficiary at all reasonable times for a period of not less than three (3) years from the date of the statement. If the plan is managed by a third party administrator, such statement shall be available at the administrative offices of the employer or employers or postsecondary educational institution.

(3) The plan's annual statement shall be accompanied by the certified actuarial opinion described in section 41-4010, Idaho Code. Such annual statement shall be prepared in accordance with actuarial standard of practice no. 28. The self-funded plan shall require that the qualified actuary retain the actuarial work papers until the department has filed an examination report of the plan covering the period of the actuarial opinion but no longer than seven (7) years from the date of such opinion.

(4) On or before expiration of such ninety (90) day period the trustee shall file an original of the annual statement and certified actuarial opinion with the director. The actuarial opinion shall be filed in a form prescribed by the director. The trustee shall pay a filing fee as provided for by rule. The director may grant a thirty (30) day extension of the time for filing the annual statement.

(5) The trustee shall also file quarterly supplemental unaudited financial reports and other periodic supplemental unaudited financial reports in a form and at the times prescribed by the director.

(6) The director shall transmit and account for all fees received by him hereunder as provided in section 41-406, Idaho Code.

(7) The annual and quarterly reports required under this section are public records and are available to the public, notwithstanding the exemptions from disclosure provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 114. That Section 41-4111, Idaho Code, be, and the same is hereby amended to read as follows:

41-4111. RECORDS AND ACCOUNTS -- ANNUAL STATEMENT. (1) The board of a joint public agency self-funded plan shall cause full and accurate records and accounts to be entered and maintained covering all financial transactions and affairs of the trust fund.

(2) Within ninety (90) days after the close of a fiscal year of the plan, the board shall make an annual statement in writing summarizing the financial transactions of the trust fund for such fiscal year and its financial condition at the end of such year in accordance with this chapter and generally accepted and applicable accounting principles. The statement shall be in the form as prescribed by the director and the financial information therein shall be certified by an independent public accountant by whom such

information was prepared. The board shall keep a copy thereof on file in the business office of the plan where it shall be available at all reasonable times for a period of not less than three (3) years for review by any beneficiary and shall deliver a copy of a financial summary to each participating employer.

(3) On or before expiration of such ninety (90) day period the board shall cause an original of the annual statement to be filed with the director. The joint public agency self-funded plan shall not be subject to any filing fees provided for by rule. The director may grant a thirty (30) day extension of the time for filing the annual statement.

(4) The board shall also file quarterly supplemental financial reports in a form and at the times prescribed by the director.

(5) The annual and quarterly reports required under this section are public records and are available to the public, notwithstanding the exemptions from disclosure provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 115. That Section 41-5103, Idaho Code, be, and the same is hereby amended to read as follows:

41-5103. LICENSURE. (1) No person, firm, association or corporation shall act as a RB in this state if the RB maintains an office either directly or as a member or employee of a firm or association, or an officer, director or employee of a corporation:

(a) In this state, unless such RB is a licensed producer in this state; or

(b) In another state, unless such RB is a licensed producer in this state or another state having a law substantially similar to this law or such RB is licensed in this state as a nonresident reinsurance intermediary.

(2) No person, firm, association or corporation shall act as a RM:

(a) For a reinsurer domiciled in this state, unless such RM is a licensed producer in this state;

(b) In this state, if the RM maintains an office either directly or as a member or employee of a firm or association, or an officer, director or employee of a corporation in this state, unless such RM is a licensed producer in this state;

(c) In another state for a nondomestic insurer, unless such RM is a licensed producer in this state or another state having a law substantially similar to this law or such person is licensed in this state as a nonresident reinsurance intermediary.

(3) The director may require a RM subject to subsection (2) of this section to:

(a) File a bond in an amount from an insurer acceptable to the director for the protection of the reinsurer; and

(b) Maintain an errors and omissions policy in an amount acceptable to the director.

(4) (a) The director may issue a reinsurance intermediary license to any person, firm, association or corporation who has complied with the requirements of this chapter. Any such license issued to a firm or association will authorize all the members of such firm or association and any designated employees to act as reinsurance intermediaries under the license, and all such persons shall be named in the application and any supplements thereto. Any such license issued to a corporation shall authorize all of the officers, and any designated employees and directors thereof to act as reinsurance intermediaries on behalf of such corporation, and all such persons shall be named in the application and any supplements thereto.



(b) If the applicant for a reinsurance intermediary license is a nonresident, such applicant, as a condition precedent to receiving or holding a license, shall designate the director as agent for service of process in the manner, and with the same legal effect, provided for in this title for designation of service of process upon unauthorized insurers, and shall also furnish the director with the name and address of a resident of this state upon whom notices or orders of the director or process affecting such nonresident reinsurance intermediary may be served. Such licensee shall promptly notify the director in writing of every change in its designated agent for service of process, and such change shall not become effective until acknowledged by the director.

(5) The director may refuse to issue a reinsurance intermediary license if, in his judgment, the applicant, anyone named on the application, or any member, principal, officer or director of the applicant, is not trustworthy, or that any controlling person of such applicant is not trustworthy to act as a reinsurance intermediary, or that any of the foregoing has given cause for revocation or suspension of such license, or has failed to comply with any prerequisite for the issuance of such license. Upon written request therefor, the director will furnish a summary of the basis for refusal to issue a license, which document shall be privileged and exempt from disclosure pursuant to exemptions provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

(6) Licensed attorneys at law of this state when acting in their professional capacity as such shall be exempt from the provisions of this section.

SECTION 116. That Section 41-5408, Idaho Code, be, and the same is hereby amended to read as follows:

41-5408. CONFIDENTIALITY -- PROHIBITION ON ANNOUNCEMENTS, PROHIBITION ON USE IN RATEMAKING. (1) All RBC reports, to the extent the information therein is not required to be set forth in a publicly available annual statement schedule, and RBC plans, including the results or report of any examination or analysis of an insurer performed pursuant hereto and any corrective order issued by the director pursuant to examination or analysis, with respect to any domestic insurer or foreign insurer which are filed with the director, constitute information that might be damaging to the insurer if made available to its competitors, and therefore shall be kept confidential by the director and shall be considered privileged. Notwithstanding the provisions of ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, this information shall not be made public or be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action. However, the director is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the director's official duties.

(2) Neither the director nor any person who received documents, materials or other information while acting under the authority of the director shall be permitted or required to testify in any private civil action concerning any confidential documents, materials or information obtained or provided pursuant to subsection (1) of this section.

(3) In order to assist in the performance of his duties under this chapter, the director may:

(a) Share documents, materials or other information, including the confidential and privileged documents, materials or information subject to subsection (1) of this section, with other states, federal and international regulatory agencies, with the NAIC and its affiliates and subsidiaries and with state, federal and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material or other information;

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

(c) Enter into agreements governing the sharing and use of information consistent with the provisions of this subsection.

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

(5) It is the judgment of the legislature that the comparison of an insurer's total adjusted capital to any of its RBC levels is a regulatory tool which may indicate the need for possible corrective action with respect to the insurer, and is not intended as a means to rank insurers generally. Therefore, except as otherwise required under the provisions of this chapter, the making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated or placed before the public in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing an assertion, representation or statement with regard to the RBC levels of any insurer, or of any component derived in the calculation, by any insurer, agent, broker or other person engaged in any manner in the insurance business would be misleading and is therefore prohibited; provided however, that if any materially false statement with respect to the comparison regarding an insurer's total adjusted capital to its RBC levels, or any of them, or an inappropriate comparison of any other amount to the insurers' RBC levels is published in any written publication and the insurer is able to demonstrate to the director with substantial proof the falsity of such statement, or the inappropriateness, as the case may be, then the insurer may publish an announcement in a written publication if the sole purpose of the announcement is to rebut the materially false statement.

(6) It is the further judgment of the legislature that the RBC instructions, RBC reports, adjusted RBC reports, RBC plans and revised RBC plans are intended solely for use by the director in monitoring the solvency of insurers and the need for possible corrective action with respect to insurers and shall not be used by the director for ratemaking nor considered or introduced as evidence in any rate proceeding nor used by the director to calculate or derive any elements of an appropriate premium level or rate of return for any line of insurance which an insurer or any affiliate is authorized to write.

SECTION 117. That Section 41-5817, Idaho Code, be, and the same is hereby amended to read as follows:

41-5817. RECORD RETENTION. (1) A public adjuster shall maintain a complete record of each transaction as a public adjuster. The records required by this section shall include the following:

- (a) Name of the insured;
- (b) Date, location and amount of the loss;
- (c) Copy of the contract between the public adjuster and insured;
- (d) Name of the insurer, amount, expiration date and number of each policy carried with respect to the loss;
- (e) Itemized statement of the insured's recoveries;

- (f) Itemized statement of all compensation received by the public adjuster, from any source whatsoever, in connection with the loss;
- (g) A register of all moneys received, deposited, disbursed or withdrawn in connection with a transaction with an insured, including fees, transfers and disbursements from a trust account and all transactions concerning all interest bearing accounts;
- (h) Name of public adjuster who executed the contract;
- (i) Name of the attorney representing the insured, if applicable, and the name of the claims representatives of the insurance company; and
- (j) Evidence of financial responsibility in a format prescribed by the department.

(2) Records shall be maintained for at least five (5) years after the termination of the transaction with an insured and shall be open to examination by the department at all times.

(3) Records submitted to the department in accordance with this section that contain information identified in writing as proprietary by the public adjuster shall be treated as confidential by the department pursuant to section 9-340D 74-107, Idaho Code.

SECTION 118. That Section 42-4010, Idaho Code, be, and the same is hereby amended to read as follows:

42-4010. POWERS AND DUTIES -- PENALTIES -- ENFORCEMENT PROCEDURE. (a) The water resource board may adopt, amend, or rescind reasonable rules, regulations, and construction standards necessary to the administration of this chapter in accordance with chapter 52, title 67, Idaho Code.

(b) The board may require that owners or operators of wells or injection wells keep or cause to be kept well logs, core records, and drilling histories of such wells or injection wells. It may require that copies of such logs, records, and/or histories be filed with the director within a reasonable time after well completion. It may further require such other geologic, geochemical, or engineering plans, reports, or records as necessary for the administration of this chapter. Any reports, logs, records, or histories filed with the director shall be available for public inspection subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, and shall be kept as confidential by the director for a period of one (1) year from well completion, provided however, that the director may use any such reports, logs, records, or histories in any action in any court to enforce the provisions of this chapter or any order or regulation adopted hereunder.

(c) The director may enter onto private land at any time to inspect any well or geothermal resource development project to determine if such well or project is being constructed, operated, or maintained according to any applicable permits or to determine if the construction, operation, or maintenance of such well or project may involve a threat to life or property or an unreasonable risk to subsurface, surface, or atmospheric resources.

(d) If the director finds that any person is constructing, operating or maintaining any well or injection well not in accordance with any applicable permit or in a fashion so as to involve an unreasonable risk of, or so as to cause, damage to life or property or subsurface, surface, or atmospheric resources, the director may issue an order to such person to correct or to stop such practices as are found to be improper and to mitigate any injury of any sort caused by such practices.

(e) The director may enforce any provision of this chapter or any order or regulation issued or adopted pursuant hereto by an appropriate action in the district court. The director may bring an action in the district court to have enjoined any threatened noncompliance with any provision of this chapter, regulations, or orders of the director, or any threatened harm to life, property, or surface, subsurface, or atmospheric resources which would be caused by such noncompliance. It shall be the duty of the attorney general to

institute and prosecute civil enforcement actions or injunctive actions as provided in this chapter, and to prosecute actions or proceedings for the enforcement of any criminal provisions of this chapter. The attorney general may delegate the authority and duty under this section to prosecute criminal actions to the prosecuting attorney of the county in which such a criminal action may arise.

(f) Any willful violation of or failure to comply with any provision of this chapter, or regulation adopted or order issued pursuant to the chapter, shall be a misdemeanor punishable by a fine of up to ten thousand dollars (\$10,000) for each offense or a sentence of up to six (6) months in a county jail or both; each day of a continuing violation shall be a separate offense under this subdivision. 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. A responsible or principal executive officer of any corporate person may be liable under this subdivision if such corporate person is not in compliance with any provision of this chapter or with any valid order or regulation adopted pursuant hereto.

(g) The director shall undertake such studies, investigations, or research programs as necessary for the proper administration of this chapter and in order to develop experience in and understanding of the entire field of geothermal resource exploration and development in both its technical and regulatory aspects. The director and board shall cooperate with other Idaho state agencies, the state institutions of higher learning, agencies of other states, and agencies of the federal government in the preparation of such investigations, studies, or research projects. The director and board may cooperate with the scientists at the Idaho national engineering laboratory in their research, development, engineering and demonstration of geothermal projects.

(h) The director may enter into cooperative agreements and memoranda of understanding with agencies of other states for the purpose of the administration of geothermal areas which are partially in Idaho and partially in one (1) or more other states.

SECTION 119. That Section 44-1606, Idaho Code, be, and the same is hereby amended to read as follows:

44-1606. DEPARTMENT -- LICENSING DUTIES -- LICENSE -- TERM -- RENEWAL FEE. (1) The department shall issue licenses to persons who are at least eighteen (18) years of age and who have shown themselves to be fit, competent and qualified to engage in the business of farm labor contracting. Factors to be considered by the department in making this determination shall include, but not be limited to, the following:

- (a) Whether an applicant has unsatisfied judgments or administrative decisions requiring the payment of unpaid wages;
- (b) Whether an applicant has worker's compensation coverage for each employee;
- (c) Whether an applicant has paid unemployment insurance contributions when due;
- (d) Whether an applicant has violated any provision of this chapter or the rules adopted hereunder;
- (e) Whether an applicant was ever denied a license or had a license revoked, suspended or not renewed under the farm labor contractor laws of any jurisdiction;
- (f) Whether an applicant has employed an agent who has had a farm labor contractor license denied, suspended, revoked or not renewed or who has

otherwise violated any provisions of this chapter or the rules adopted hereunder; and

(g) Whether an applicant, when required by law, has failed or refused to seek food, water, shelter or medical attention, or to provide any other goods or services required for the safety and health of the applicant's employees.

(2) The industrial commission shall make records available to the department, including records that are otherwise exempt from disclosure under section 9-340B 74-105, Idaho Code, for the purpose of determining an applicant's qualifications under subsection (1) (b) of this section. Records disclosed under this subsection shall not be further disclosed by the department.

(3) The department shall issue a license within fifteen (15) business days of receipt of a completed application if the department determines the applicant to be fit, competent and qualified to engage in the business of farm labor contracting. An application shall be deemed completed when all required information and documentation has been submitted to the department.

(4) The license shall not be transferable or assignable.

(5) The first year of licensing shall run from April 1st to the following March 31st and each license shall expire on March 31st following the date of its issuance unless sooner revoked or otherwise terminated by the department. Beginning January 1, 2004, the licensing year shall run from January 1st to the following December 31st and each license shall expire on December 31st following the date of its issuance unless sooner revoked or otherwise terminated by the department.

(6) A license may be renewed annually upon payment of a nonrefundable fee of two hundred fifty dollars (\$250) and by providing the following:

(a) Proof of financial responsibility as required by section 44-1604, Idaho Code;

(b) A certificate of insurance as required by section 44-1603(2) (e), Idaho Code; and

(c) A certificate of insurance as required by section 44-1603(2) (f), Idaho Code.

The department may require any person seeking renewal to file a new application showing the person to be fit, competent and qualified to continue to engage in the business of farm labor contracting.

(7) The department shall maintain a central public registry of all persons issued a farm labor contractor's license.

SECTION 120. 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. (1) 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.

(2) 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 such purposes. In the event of a conflict, the duty to prevent waste is paramount.

(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.

(4) The commission is authorized to appoint, as necessary, committees for the purpose of advising the commission on matters relating to oil and gas.

(5) Without limiting its general authority, the commission shall have the specific authority to require:

- (a) Identification of ownership of oil or gas wells, producing leases, tanks, plants, structures, and facilities for the transportation or refining of oil and gas;
- (b) 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~~ chapter 1, title 74, 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;
- (c) The drilling, casing, operation and plugging of wells in such manner as to prevent: (i) the escape of oil or gas out of one (1) pool into another; (ii) the detrimental intrusion of water into an oil or gas pool that is avoidable by efficient operations; (iii) the pollution of fresh water supplies by oil, gas, or salt water; (iv) blow-outs, cavings, seepages, and fires; and (v) waste as hereinabove defined;
- (d) The taking of tests of oil or gas wells;
- (e) 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;
- (f) 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;
- (g) 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;
- (h) Metering or other measuring of oil, gas, or product;
- (i) That every person who produces oil 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
- (j) The filing of reports of plats with the commission that it may prescribe.

(6) 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 to regulate:

- (a) 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 and gas;
- (b) The shooting and treatment of wells;
- (c) The spacing or locating of wells;
- (d) 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
- (e) The disposal of salt water and oil-field wastes.

(7) The commission is authorized to classify and reclassify pools as oil, gas, or condensate pools, or wells as oil, gas, or condensate wells.

(8) 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 121. That Section 47-1314, Idaho Code, be, and the same is hereby amended to read as follows:

47-1314. DISTURBED LANDS TO BE RESTORED -- NOTICE AND RESTORATION OF PLACER OR DREDGE EXPLORATION OPERATIONS. (a) Any person conducting a placer or dredge mining operation shall, within one (1) year of permanent cessation of operations as to the whole or any part of the permit area, commence restoration of disturbed lands in the permit area or in any portion thereof as to which operations are permanently ceased. In accordance with a permit approved for the operation under section 47-1317, Idaho Code, surfaces shall be returned to a contour reasonably comparable to that contour existing prior to disturbance, topsoil shall be replaced where deemed appropriate by the board, and vegetation shall be planted reasonably comparable to that vegetation existing prior to disturbance. Any disturbed natural watercourse shall be restored to a configuration and pool structure conducive to good fish and wildlife habitat and recreational use.

(b) Any person desiring to conduct placer or dredge exploration operations using motorized earth-moving equipment shall, within seven (7) days of commencing exploration, notify the director by certified mail of the name and address of the person, and the location, anticipated size, and method of exploration. Such notice shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. Any placer or dredge exploration operation which causes a cumulative surface disturbance in excess of one-half (1/2) acre of land, including roads, shall be considered a placer or dredge mining operation. Lands disturbed by any placer or dredge exploration operation which causes a cumulative surface disturbance of less than one-half (1/2) acre of land, including roads, shall be restored to conditions reasonably comparable to conditions existing prior to the placer or dredge exploration operation.

SECTION 122. That Section 47-1506, Idaho Code, be, and the same is hereby amended to read as follows:

47-1506. OPERATOR -- DUTIES PRIOR TO OPERATION -- SUBMISSION OF MAPS AND PLANS. (a) Any operator desiring to conduct surface mining operations within the state of Idaho for the purpose of immediate or ultimate sale of the minerals in either the natural or processed state, shall submit to the board prior to commencing such surface mining operations a reclamation plan that contains the following:

(1) A map of the mine panel on which said operator desires to conduct surface mining operations, which sets forth with respect to said panel the following:

(i) The location of existing roads and anticipated access and main haulage roads planned to be constructed in conducting the surface mining operations.

(ii) The approximate boundaries of the lands to be utilized in the process of surface mining operations.

(iii) The approximate location and, if known, the names of all streams, creeks, or bodies of water within the area where surface mining operations shall take place.

(iv) The name and address of the person to whom notices, orders, and other information required to be given to the operator pursuant to this chapter may be sent.

(v) The drainage adjacent to the area where the surface is being utilized by surface mining operations.

(vi) The approximate boundaries of the lands that will become affected lands as a result of surface mining operations during the year immediately following the date that a reclamation plan is approved as to said panel, together with the number of acres included within said boundaries.

(vii) A description of foreseeable, site-specific nonpoint sources of water quality impacts upon adjacent surface waters, and the best management practices that will be used to control such nonpoint source impacts.

(viii) A description of foreseeable, site-specific impacts from acid rock drainage and the best management practices that will be used to mitigate the impacts, if any, from such acid rock drainage.

(2) Diagrams showing the planned location of pits, mineral stockpiles, overburden piles and tailings ponds on said panel.

(3) A description of the action which said operator intends to take to comply with the provisions of this chapter as to the surface mining operations conducted on such mine panel.

(b) Any operator who is not required to submit an operating plan for a surface mining operation to an entity of the federal government shall submit to the board, as part of the reclamation plan, an operating plan with regards to that surface mining operation. The operating plan shall include:

(1) Maps showing the location of existing roads and anticipated access and main haulage roads planned to be constructed for surface mining operations.

(2) The boundaries and acreage of the lands to be utilized in the process of surface mining operations.

(3) Maps showing the planned location of pits, mineral stockpiles, overburden piles and tailings ponds for the surface mining operations.

(4) The location and, if known, the names of all streams, creeks, or bodies of water within the area where surface mining operations shall take place.

(5) The drainage adjacent to the area where the surface is being utilized by surface mining operations.

(6) The approximate boundaries and acreage of the lands that will become affected during the first year of construction of surface mining operations.

(7) The board shall promulgate rules or guidelines to allow the content of a nonfederal operating plan to be determined based upon the type and size of the surface mining operation.

(c) No operator who is required to submit an operating plan for a surface mining operation to an entity of the federal government shall be required to submit an operating plan to the board. This provision shall apply to all lands, regardless of surface or mineral ownership, covered by the operating plan submitted to the entity of the federal government.

(d) No operator shall commence surface mining operations on any mine panel without first having a reclamation plan approved by the state board of land commissioners.

(e) Any operator desiring to conduct exploration operations within the state of Idaho using motorized earth-moving equipment in order to locate minerals for immediate or ultimate sale in either the natural or the processed state shall notify the board by certified mail as soon after beginning exploration operations as possible and in any event within seven (7) days after beginning exploration operations. The letter shall include the following:



- (1) The name and address of the operator;
- (2) The location of the operation and the starting date and estimated completion date;
- (3) The anticipated size of the operation, and the general method of operation.

The letter shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

(f) Any operator desiring to operate a cyanidation facility within the state of Idaho shall submit to the board prior to the operation of such a facility a permanent closure plan that contains the following:

- (1) The name and address of the operator;
- (2) The location of the operation;
- (3) The objectives, methods and procedures the operator will use to attain permanent closure;
- (4) An estimate of the cost of attaining permanent closure as well as an estimate of the costs to achieve critical phases of the closure plan;
- (5) Any other information specified in the rules adopted to carry out the intent and purposes of this chapter.

(g) The board may require a reasonable fee for reviewing and approving a permanent closure plan. The fee may include the reasonable cost to employ a qualified independent party, acceptable to the operator and the board, to verify the accuracy of the cost estimate required in subsection (f) (4) of this section.

(h) The board shall coordinate its review of activities in the permanent closure plan under the statutory responsibility of the department of environmental quality with that department, but that coordination shall not extend the time limit in which the board must act on a plan submitted.

(i) No operator shall commence operation of a cyanidation facility without first having a permanent closure plan approved by the board.

SECTION 123. That Section 47-1515, Idaho Code, be, and the same is hereby amended to read as follows:

47-1515. INFORMATION. Any information supplied by an operator to the board, the director, or the department of lands, and designated by such operator as confidential, shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 124. That Section 48-612, Idaho Code, be, and the same is hereby amended to read as follows:

48-612. ADDITIONAL POWERS OF ATTORNEY GENERAL. To accomplish the objectives and to carry out the duties prescribed by this chapter, the attorney general, in addition to other powers conferred upon him by this chapter, may issue subpoenas to any person and conduct hearings in aid of any investigation or inquiry; provided that information obtained pursuant to the powers conferred in this chapter shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 125. That Section 48-801, Idaho Code, be, and the same is hereby amended to read as follows:

48-801. DEFINITIONS. As used in this chapter unless the context requires otherwise:

- (1) "Improper means" include theft, bribery, misrepresentation, breach or inducement of a breach of a duty to maintain secrecy, or espionage through electronic or other means.
- (2) "Misappropriation" means:

- (a) Acquisition of a trade secret of another by a person who knows or has reason to know that the trade secret was acquired by improper means; or
- (b) Disclosure or use of a trade secret of another without express or implied consent by a person who:

- (A) Used improper means to acquire knowledge of the trade secret;or

- (B) At the time of disclosure or use, knew or had reason to know that his knowledge of the trade secret was:

- (i) Derived from or through a person who had utilized improper means to acquire it;

- (ii) Acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use; or

- (iii) Derived from or through a person who owed a duty to the person seeking relief to maintain its secrecy or limit its use; or

- (C) Before a material change of his position, knew or had reason to know that it was a trade secret and that knowledge of it had been acquired by accident or mistake.

(3) "Person" means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(4) "Computer program" means information which is capable of causing a computer to perform logical operation(s) and:

- (a) Is contained on any media or in any format;

- (b) Is capable of being input, directly or indirectly, into a computer; and

- (c) Has prominently displayed a notice of copyright, or other proprietary or confidential marking, either within or on the media containing the information.

(5) "Trade secret" means information, including a formula, pattern, compilation, program, computer program, device, method, technique, or process, that:

- (a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

- (b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Trade secrets as defined in this subsection are subject to disclosure by a public agency according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 126. That Section 48-1509, Idaho Code, be, and the same is hereby amended to read as follows:

48-1509. PUBLIC RECORDS. All documents submitted to the attorney general by any person, including nonprofit hospital entities giving notice under section 48-1503, Idaho Code, in connection with the attorney general's review of the proposed nonprofit hospital conversion transaction pursuant to this chapter shall be deemed records contained in court files of judicial proceedings, as provided for in section ~~9-340A~~ 74-104(2), Idaho Code, and shall only be subject to public disclosure, pursuant to a public document request, in the same manner as set forth in that section.

SECTION 127. That Section 49-321, Idaho Code, be, and the same is hereby amended to read as follows:

49-321. RECORDS TO BE KEPT BY THE DEPARTMENT. (1) The department shall file every application for a driver's license received by it and shall maintain suitable indices containing:

- (a) All applications denied and on each note the reason for denial;
- (b) All applications granted;
- (c) The name of every licensee whose driver's license has been suspended, revoked, canceled, denied or disqualified by the department and after each name note the reasons for the action;
- (d) The driver's license number for the applicant; and
- (e) The social security number of the applicant.

(2) The department shall file the original or copy of the medical examiner's certificates, medical exemption letters and skill performance evaluation certificates of all commercial driver's license or instruction permit holders required to provide documentation of their physical qualification. The department shall maintain the document(s) for a period of three (3) years beyond the date the certificate or document was issued.

(3) The department shall also file all accident reports and abstracts of court records of convictions received by it under the law from any jurisdiction and is authorized to forward records of convictions, suspensions or disqualifications to any jurisdiction. Records may be in either paper or electronic form. The department shall maintain convenient records or make suitable notations in order that an individual record of each licensee showing the convictions and the traffic accidents in which the licensee has been involved shall be readily ascertainable and available for consideration of the department upon any application for renewal of a driver's license and at other suitable times.

(4) The department of health and welfare, on or about the 25th day of each month shall, upon the request of the department, furnish the department a listing showing the name, age, county of residence, and residence address of each Idaho resident who has died during the preceding month. The listing shall be used only for purposes of updating the driver's license files of the department and shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 128. That Section 49-1234, Idaho Code, be, and the same is hereby amended to read as follows:

49-1234. ONLINE INSURANCE VERIFICATION SYSTEM -- PEACE OFFICER DUTIES -- RULEMAKING. (1) The department shall establish and maintain an online insurance verification system for motor vehicle insurance coverage required by the provisions of this chapter, subject to the following:

- (a) The department shall consult with representatives of the insurance industry to determine the objectives, details and deadlines relating to the verification system;
- (b) The verification system shall be accessible through the internet, world wide web or a similar proprietary or common carrier electronic system by authorized personnel of the department, department of insurance, courts, law enforcement entities and of any other entity authorized by the department;
- (c) The verification system shall provide for direct inquiry and response between the department and insurance carriers, or such other method of inquiry and response as agreed to by the department and individual insurance carriers, and direct access to insurers' records by personnel authorized by the department;
- (d) The verification system shall be capable of sending inquiries to and receiving responses from insurers for the purpose of verifying 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 74-106, Idaho Code.

(2) As a condition for writing motor vehicle liability insurance policies in this state, insurance carriers shall cooperate with the department in establishing and maintaining the insurance verification system and shall provide access to motor vehicle insurance policy status information as may be provided in rules promulgated by the department.

(3) Insurers that make good faith efforts to comply with the provisions of this section shall be immune from civil or administrative liability related to this section.

(4) Peace officers shall access information from the online insurance verification system to verify the current validity of motor vehicle liability insurance. If insurance is verified, then the peace officer shall not issue a citation for an infraction violation of the provisions of section 49-1232, Idaho Code.

(5) If an Idaho uniform citation is issued to a person for an infraction violation of the provisions of section 49-1232, Idaho Code, and it is subsequently found that the legally required motor vehicle insurance coverage was in force at the time of the issuance of the citation, then the court shall dismiss the citation without penalty and such citation shall not appear on the person's record.

(6) This section shall not apply to any vehicle insured under commercial motor vehicle coverage and shall not apply to implements of husbandry and golf carts. As used in this section, "commercial motor vehicle coverage" means an insurance policy that covers a business's vehicles and employees.

(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 129. That Section 49-1311, Idaho Code, be, and the same is hereby amended to read as follows:

49-1311. ACCIDENT REPORTS. All accident reports made by garages shall be without prejudice to the individual reporting and shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, and shall be used for accident prevention purposes.

SECTION 130. That Section 49-1313, Idaho Code, be, and the same is hereby amended to read as follows:

49-1313. ANY INCORPORATED CITY MAY REQUIRE ACCIDENT REPORTS. Any incorporated city may by ordinance require that the driver of a vehicle involved in an accident also file with a designated city department a report of an accident or a copy of any report required to be filed with the depart-

ment. All such reports shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 131. That Section 49-1314, Idaho Code, be, and the same is hereby amended to read as follows:

49-1314. TESTING BLOOD OF PERSONS KILLED IN ACCIDENTS. (1) The director of the Idaho state police, jointly with the various county coroners, shall provide a system and procedure whereby all coroners in Idaho shall obtain blood samples from all pedestrians and motor vehicle operators who have died as a result of and contemporaneously with an accident involving a motor vehicle.

(2) All investigating peace officers shall report traffic fatalities to the county coroner or follow the procedure established by the joint action of the director of the Idaho state police and the various coroners.

(3) The blood sample, or result of blood testing, with any information as may be required, shall be delivered to the director of the Idaho state police or his designee. Upon receipt of the sample the director will cause all tests as may be required to determine the amount of alcohol, narcotics and dangerous drugs that may be contained in the sample.

(4) The results of such tests shall be used for statistical purposes and shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 132. That Section 50-2006, Idaho Code, be, and the same is hereby amended to read as follows:

50-2006. URBAN RENEWAL AGENCY. (a) There is hereby created in each municipality an independent public body corporate and politic to be known as the "urban renewal agency" that was created by resolution as provided in section 50-2005, Idaho Code, before July 1, 2011, for the municipality; provided, that such agency shall not transact any business or exercise its powers hereunder until or unless: (1) the local governing body has made the findings prescribed in section 50-2005, Idaho Code; and provided further, that such agency created after July 1, 2011, shall not transact any business or exercise its powers provided for in this chapter until (2) a majority of qualified electors, voting in a citywide or countywide election depending on the municipality in which such agency is created, vote to authorize such agency to transact business and exercise its powers provided for in this chapter. If prior to July 1, 2011, the local governing body has made the findings prescribed in subsection (a) (1) of this section then such agency shall transact business and shall exercise its powers hereunder and is not subject to the requirements of subsection (a) (2) of this section.

(b) Upon satisfaction of the requirements under subsection (a) of this section, the urban renewal agency is authorized to transact the business and exercise the powers hereunder by a board of commissioners to be established as follows:

(1) The mayor, by and with the advice and consent of the local governing body, shall appoint a board of commissioners of the urban renewal agency which shall consist of not less than three (3) commissioners nor more than nine (9) commissioners. In the order of appointment, the mayor shall designate the number of commissioners to be appointed, and the term of each, provided that the original term of office of no more than two (2) commissioners shall expire in the same year. The commissioners shall serve for terms not to exceed five (5) years, from the date of appointment, except that all vacancies shall be filled for the unexpired term.

(2) For inefficiency or neglect of duty or misconduct in office, a commissioner may be removed by a majority vote of the board or by the local

governing body only after a hearing and after he shall have been given a copy of the charges at least ten (10) days prior to such hearing and have had an opportunity to be heard in person or by counsel. Any commission position which becomes vacant at a time other than the expiration of a term shall be filled by a majority vote of the board. The board may elect any person to fill such vacant position where such person meets the requirements of a commissioner provided for in this chapter.

(3) By enactment of an ordinance, the local governing body may appoint and designate itself to be the board of commissioners of the urban renewal agency, in which case all the rights, powers, duties, privileges and immunities vested by the urban renewal law of 1965, and as amended, in an appointed board of commissioners, shall be vested in the local governing body, who shall, in all respects when acting as an urban renewal agency, be acting as an arm of state government, entirely separate and distinct from the municipality, to achieve, perform and accomplish the public purposes prescribed and provided by said urban renewal law of 1965, and as amended.

(4) By enactment of an ordinance, the local governing body may terminate the appointed board of commissioners and thereby appoint and designate itself as the board of commissioners of the urban renewal agency.

(c) A commissioner shall receive no compensation for his services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties. Each commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk of the municipality and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner.

The powers of an urban renewal agency shall be exercised by the commissioners thereof. A majority of the commissioners shall constitute a quorum for the purpose of conducting business and exercising the powers of the agency and for all other purposes. Action may be taken by the agency upon a vote of a majority of the commissioners present, unless in any case the by-laws shall require a larger number.

The commissioners shall elect the chairman, cochairman or vice chairman for a term of one (1) year from among their members. An agency may employ an executive director, technical experts and such other agents and employees, permanent and temporary, as it may require, and determine their qualifications, duties and compensation. For such legal service as it may require, an agency may employ or retain its own counsel and legal staff. An agency authorized to transact business and exercise powers under this chapter shall file, with the local governing body, on or before March 31 of each year a report of its activities for the preceding calendar year, which report shall include a complete financial statement setting forth its assets, liabilities, income and operating expense as of the end of such calendar year. The agency shall be required to hold a public meeting to report these findings and take comments from the public. At the time of filing the report, the agency shall publish in a newspaper of general circulation in the community a notice to the effect that such report has been filed with the municipality and that the report is available for inspection during business hours in the office of the city clerk or county recorder and in the office of the agency.

(d) An urban renewal agency shall have the same fiscal year as a municipality and shall be subject to the same audit requirements as a municipality. An urban renewal agency shall be required to prepare and file with its local governing body an annual financial report and shall prepare, approve and adopt an annual budget for filing with the local governing body, for informational purposes. A budget means an annual estimate of revenues and expenses for the following fiscal year of the agency.

(e) An urban renewal agency shall comply with the public records law pursuant to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, open meet-

ings law pursuant to ~~chapter 23, title 67~~ chapter 2, title 74, Idaho Code, the ethics in government law pursuant to ~~chapter 7, title 59~~ chapter 4, title 74, Idaho Code, and the competitive bidding provisions of chapter 28, title 67, Idaho Code.

SECTION 133. That Section 54-204, Idaho Code, be, and the same is hereby amended to read as follows:

54-204. POWERS AND DUTIES. The Idaho state board of accountancy, in addition to the other powers and duties set forth in this chapter, shall have the following powers and duties:

(1) To adopt and amend rules in accordance with the provisions of the administrative procedure act, chapter 52, title 67, Idaho Code, governing its administration and the enforcement of this chapter and the conduct of licensees including, but not limited to:

(a) Rules governing the board's meetings and the conduct of its business;

(b) Rules of procedure governing the conduct of investigations and hearings by the board;

(c) Rules specifying the education, examination and experience qualifications required for the issuance of certificates, and the continuing professional education required for renewal of licenses;

(d) Rules of professional conduct directed to controlling the quality and probity of professional services by licensees, and dealing among other things with independence, integrity and objectivity; competence and technical standards; responsibilities to the public; and responsibilities to clients;

(e) Rules governing the professional standards applicable to licensees;

(f) Rules governing the manner and circumstances of use of the titles "certified public accountant" and "licensed public accountant";

(g) Rules regarding peer reviews that may be required to be performed under the provisions of this chapter;

(h) Rules on substantial equivalency to implement section 54-227, Idaho Code;

(i) Rules adopting statements on standards as specified in section 54-206, Idaho Code, which, if the board may deem appropriate, shall be those standards developed for general application by recognized accountancy organizations such as the AICPA, as such statements are established from time to time; and

(j) Such other rules as the board may deem necessary or appropriate to implement or administer the provisions and purposes of this chapter.

(2) To issue original certificates of qualification and licenses to practice as certified public accountants to such applicants as may be qualified by reciprocity, transfer of examination grades or by examination.

(3) To charge and collect from all applicants, certificate holders, and licensees such fees as are provided by this chapter and prescribed by rules of the board.

(4) To initiate or receive complaints, cause the same to be investigated, initiate proceedings, and conduct hearings or proceedings pursuant to chapter 2, title 54, Idaho Code. The board may designate a member, or any other person of appropriate competence, to serve as investigating officer to conduct an investigation. Upon completion of an investigation, the investigating officer shall file a report with the board. Unless dismissed by the board as unfounded or trivial, the board may proceed with disciplinary proceedings or may return the report to the investigating officer for further investigation.

(a) In order to protect the interests of a complainant, witness, third party or defendant, the board may upon application and for good cause

shown, issue a protective order, consistent with ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, prohibiting the disclosure of specific information otherwise not privileged and confidential and direct that the proceedings be conducted so as to implement the order.

(b) In carrying into effect the provisions of this chapter, the board may subpoena witnesses and compel their attendance, and also may require the submission of books, papers, documents or other pertinent data; may administer oaths; may take testimony; may cooperate with the appropriate authorities in other states in investigation and enforcement concerning violations of this chapter and comparable acts of other states; and may receive evidence in any disciplinary matters or in any case wherever a violation of the provisions of this chapter is alleged. Upon failure or refusal to comply with any such order of the board, or upon failure to honor its subpoena, the board may apply to the court in the district where the witness resides to enforce compliance.

(5) To authorize by written agreement the bureau of occupational licenses as agent to act in its interest.

(6) Any action, claim or demand to recover money damages from the board or its employees which any person is legally entitled to recover as compensation for the negligent or otherwise wrongful act or omission of the board or its employees, when acting within the course and scope of their employment, shall be governed by the Idaho tort claims act, chapter 9, title 6, Idaho Code. For purposes of this subsection, the term "employees" shall include special assignment members of the board and other independent contractors while acting within the course and scope of their board related work.

(7) All hearings, investigations or proceedings conducted by the board shall be conducted in conformity with chapter 52, title 67, Idaho Code, and rules of the board adopted pursuant thereto, and, unless otherwise requested by the concerned party, be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 134. That Section 54-918, Idaho Code, be, and the same is hereby amended to read as follows:

54-918. EXAMINATIONS -- CERTIFICATE OF QUALIFICATION. (1) An applicant for licensure shall pass such examinations in dentistry and in dental hygiene as are conducted by the board or its agent. Examinations shall be written or clinical, or both, and upon such subjects in dentistry and dental hygiene as the board shall determine will thoroughly test the fitness and ability of the applicant to practice dentistry or dental hygiene. An applicant for licensure shall pass the written jurisprudence examination conducted by the board. A passing score of seventy-five percent (75%) correct shall be required on the written jurisprudence examination. A passing score of at least seventy-five percent (75%) correct shall be required on any additional written or clinical examinations conducted by the board. It shall report and record the names of applicants who pass and of those who fail the examinations. Upon the candidate's request, the board will issue to each passing applicant in dentistry, who is qualified for Idaho licensure, a certificate of qualification to practice dentistry, and to each passing applicant in dental hygiene, who is qualified for Idaho licensure, a certificate of qualification to practice dental hygiene within the state of Idaho.

(2) In lieu of conducting written examinations other than the jurisprudence examination, the board may require and accept the results of the national board dental and dental hygiene examinations administered by the American dental association. The American dental association shall set the standards for passing the national board dental and dental hygiene examinations. In lieu of conducting clinical examinations, the board may require and accept the results of clinical examinations administered by national or regional testing organizations approved by the board. The national



or regional testing organizations shall set the standards for passing or acceptable level of competency on the clinical examinations administered.

(3) Applicants who fail any examination conducted by the board or its agent shall be notified thereof in writing by the board, which shall also record the fact of failure and the date and means of notification.

(4) Written questions and answers of applicants shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, unless exempt from disclosure in that chapter and title, and shall be destroyed by the board after the period of one (1) year following the examination.

SECTION 135. That Section 54-934, Idaho Code, be, and the same is hereby amended to read as follows:

54-934. PEER REVIEW COMMITTEES -- IMMUNITY FROM LIABILITY -- CONFIDENTIALITY OF RECORDS. (1) The state board of dentistry or the Idaho state dental association or both may establish one (1) or more peer review committees pursuant to this section, for the purpose of:

- (a) Determining the relevancy of a dentist's usual and reasonable fees or treatment procedure to the terms of a contract;
- (b) Assessing the quality of services rendered; or
- (c) Evaluating claims against dentists or engaging in underwriting decisions in connection with professional liability insurance coverage for dentists.

(2) The board or the associations, any one (1) of which has established a peer review committee pursuant to law, any committee member or any staff member of either the board or of the associations assisting a peer review committee, and any witness or consultant appearing before or presenting information to a peer review committee shall be immune from liability in any civil action brought as a result of a peer review investigation or proceeding conducted by a peer review committee, if the board, association, committee or staff member, witness or consultant, acts in good faith within the scope of the function of the committee, has made a reasonable effort to obtain the facts of the matter as to which the board or association or he acts, in the reasonable belief that the action taken is warranted by the facts.

(3) Any entity, organization or person acting without malice in making any report or other information available to a peer review committee, or who assists in the origination, investigation or preparation of that information, or assists a committee in carrying out any of its duties or functions, shall be immune from civil liability for any such actions.

(4) Any communications or information relating to peer committee investigations or proceedings as provided by law, and the proceedings and records of the committee related to them, shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, unless exempt from disclosure in that chapter and title, and shall not be subject to discovery or introduced into evidence in any civil action against a dentist arising out of matters which are the subject of evaluation and review by the committee.

SECTION 136. That Section 54-1210, Idaho Code, be, and the same is hereby amended to read as follows:

54-1210. RECORDS AND REPORTS. (1) The board shall keep a record of its proceedings and a record of all applications for licensure or certification, which record shall show: the name, date of birth and last known address of each applicant; the date of the application; the place of business of such applicant; his education, experience and other qualifications; type of examination required; whether or not the applicant was rejected; whether

or not a certificate or license was granted; the dates of the action of the board; and any other information as may be deemed necessary by the board.

(2) The records of the board shall be prima facie evidence of the proceedings of the board set forth therein, and minutes thereof, duly certified by the secretary of the board under seal, shall be admissible in evidence with the same force and effect as if the original were produced.

(3) Annually the board shall submit to the governor a report of its activities of the preceding year, and shall also transmit to him a summary statement of the receipts and expenditures of the board.

(4) Board records and papers are subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 137. 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.

(a) The application process shall include conducting a state and federal criminal background check 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~~ chapter 1, title 74, 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.

SECTION 138. That Section 54-1413, Idaho Code, be, and the same is hereby amended to read as follows:

54-1413. DISCIPLINARY ACTION. (1) Grounds for discipline. The board shall have the power to refuse to issue, renew or reinstate a license issued pursuant to this chapter, and may revoke, suspend, place on probation, reprimand, limit, restrict, condition or take other disciplinary action against the licensee as it deems proper, including assessment of the costs of investigation and discipline against the licensee, upon a determination by the board that the licensee engaged in conduct constituting any one (1) of the following grounds:

- (a) Made, or caused to be made, a false, fraudulent or forged statement or representation in procuring or attempting to procure a license to practice nursing;
- (b) Practiced nursing under a false or assumed name;
- (c) Is convicted of a felony or of any offense involving moral turpitude;
- (d) Is or has been grossly negligent or reckless in performing nursing functions;
- (e) Habitually uses alcoholic beverages or drugs as defined by rule;
- (f) Is physically or mentally unfit to practice nursing;
- (g) Violates the provisions of this chapter or rules and standards of conduct and practice as may be adopted by the board;
- (h) Otherwise engages in conduct of a character likely to deceive, defraud or endanger patients or the public, which includes, but is not limited to, failing or refusing to report criminal conduct or other conduct by a licensee that endangers patients;
- (i) Has been disciplined by a nursing regulatory authority in any jurisdiction. A certified copy of the order entered by the jurisdiction shall be prima facie evidence of such discipline;
- (j) Failure to comply with the terms of any board order, negotiated settlement or probationary agreement of the board, or to pay fines or costs assessed in a prior disciplinary proceeding; or
- (k) Engaging in conduct with a patient that is sexual, sexually exploitative, sexually demeaning or may reasonably be interpreted as sexual, sexually exploitative or sexually demeaning; or engaging in conduct with a former patient that is sexually exploitative or may reasonably be interpreted as sexually exploitative. It would not be a violation under this subsection for a nurse to continue a sexual relationship with a spouse or individual of majority if a consensual sexual relationship existed prior to the establishment of the nurse-patient relationship.

(2) Separate offense. Each day an individual violates any of the provisions of this chapter or rules and standards of conduct and practice as may be adopted by the board shall constitute a separate offense.

(3) Proceedings.

- (a) The executive director shall conduct such investigations and initiate such proceedings as necessary to ensure compliance with this section. The board may accept the voluntary surrender of a license from any nurse under investigation and accordingly enter an order revoking or suspending such license and/or imposing such conditions, limitations, or restrictions on the practice of any such nurse as may be appropriate in the discretion of the board. Otherwise, every person subject to disciplinary proceedings shall be afforded an opportunity

for hearing after reasonable notice. All proceedings hereunder shall be in accordance with chapter 52, title 67, Idaho Code.

(b) Hearings shall be conducted by the board or by persons appointed by the board to conduct hearings and receive evidence. The board and any person duly appointed by the board to conduct hearings shall have all powers as are necessary and incident to orderly and effective receipt of evidence including, but not limited to, the power to administer oaths and to compel by subpoena attendance of witnesses and production of books, records and things at the hearing or at a deposition taken by a party in accordance with the Idaho rules of civil procedure. Any party shall be entitled to the use of subpoena upon application therefor.

(c) In the event any person fails to comply with a subpoena personally served upon him or refuses to testify to any matter regarding which he may be lawfully interrogated, the board shall petition the district court in the county where such failure or refusal occurred or where such person resides, to enforce such subpoena or compel such testimony. Proceedings before the district court shall be for contempt in the same nature as contempt of court for failure or refusal to comply with an order of the court and the court shall have the same powers to secure compliance with subpoena and testimony or to impose penalties as in contempt of court proceedings.

(4) Probation/Subsequent review. Any order of the board entered under this section may be withheld or suspended for a probationary period to be fixed by the board upon such terms and conditions as may be appropriate in order to regulate, monitor and/or supervise the practice of nursing by the licensee subject to such order for the prescribed probationary period. Any order of the board entered under this section may be withdrawn, reversed, modified or amended upon a showing by the person subject to the order that the grounds for discipline no longer exist or that he is rehabilitated, qualified and competent to practice nursing and that he is not likely to violate this chapter or rules adopted hereunder in the future. The board may, as a condition to withdrawal, reversal, modification or amendment of the order, require the person to pay all or part of the costs incurred by the board in proceedings upon which the order was entered.

(5) Reporting investigative information.

(a) Nothing in section 9-340C 74-106(8) and (9), Idaho Code, shall be construed as limiting the authority of the board to report current significant investigative information to the coordinated licensure information system for transmission to states that are parties to any multi-state agreements or compacts regarding nurse licensure.

(b) The executive director of the board may, in the administration of this chapter, share information and otherwise cooperate with government regulatory and law enforcement agencies.

SECTION 139. That Section 54-1715, Idaho Code, be, and the same is hereby amended to read as follows:

54-1715. MEETINGS OF THE BOARD. (1) The board of pharmacy shall meet at least once every six (6) months to transact its business. One such meeting held during each fiscal year of the state shall be designated as the annual meeting and shall be for the purpose of electing officers and for the reorganization of the board. The board shall meet at such additional times as it may determine. Such additional meetings may be called by the chairman of the board or by three (3) of the members of the board.

(2) The board shall meet at such place as it may from time to time determine. The place for each meeting shall be determined prior to giving notice of such meeting and shall not be changed after such notice is given without adequate subsequent notice.

(3) Notice of all meetings of the board shall be given in the manner and pursuant to requirements prescribed by the state's applicable statutes, rules and regulations.

(4) A majority of the members of the board shall constitute a quorum for the conduct of a board meeting and, except where a greater number is required by the act, or by any rule or regulation of the board, all actions of the board shall be by a majority of a quorum.

(5) All meetings and hearings of the board shall be conducted in compliance with the provisions of ~~sections 67-2340 through 67-2347~~ chapter 2, title 74, Idaho Code.

SECTION 140. That Section 54-1806, Idaho Code, be, and the same is hereby amended to read as follows:

54-1806. POWERS AND DUTIES. The board shall have the authority to:

(1) Hire or appoint employees, including an executive director, investigators, attorneys, consultants and independent hearing examiners.

(2) Establish pursuant to the administrative procedure act rules for administration of this chapter, including rules governing all activities of persons employed as physician's assistants by persons licensed to practice medicine in this state. The board shall adopt rules pursuant to the administrative procedure act establishing procedures for the receipt of complaints and for the investigation and disposition thereof. Such rules shall provide for notice to a person when the board has authorized the committee to investigate that person and shall provide an opportunity for a person under investigation to meet with the committee or its staff before the initiation of formal disciplinary proceedings by the board.

(3) Conduct investigations and examinations and hold hearings as authorized by this section and by section 54-1806A, Idaho Code.

(4) The board shall have the power in any investigation or disciplinary proceeding pursuant to this chapter to administer oaths, take depositions of witnesses within or without the state in the manner consistent with rules adopted by the board pursuant to the administrative procedure act, and upon a determination that there is good cause the board shall have power throughout the state of Idaho to require the attendance of such witnesses and the production of such books, records, and papers as it may deem appropriate for any investigation, deposition or hearing. For that purpose the board may issue a subpoena for any witnesses or a subpoena duces tecum to compel the production of any books, records or papers, directed to the sheriff of any county of the state of Idaho, where such witness resides, or may be found, which shall be served and returned in the same manner as a subpoena in a criminal case is served and returned. The fees and mileage of the witnesses shall be the same as that allowed in the district courts in criminal cases, which fees and mileage shall be paid from any funds in the state treasury in the same manner as other expenses of the board are paid. In any case of disobedience to, or neglect of, any subpoena or subpoena duces tecum served upon any person, or the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated, it shall be the duty of the district court of any county in this state in which such disobedience, neglect or refusal occurs, or any judge thereof, on application by the board to compel 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 licensed person accused in such formal contested case shall have the same right of subpoena upon making application to the board therefor.

(5) Seek injunctive relief prohibiting the unlawful practice of medicine.

(6) Make and enter into contracts.

(7) Operate, manage, superintend and control the licensure of physicians.

(8) Develop and submit a proposed budget setting forth the amount necessary to perform its functions.

(9) Perform such other duties as set forth in the laws of this state.

(10) Provide such other services and perform such other functions as are necessary to fulfill its responsibilities.

(11) Provide for reasonable fees through rules for administrative costs and assess costs reasonably and necessarily incurred in the enforcement of this chapter when a licensee has been found to be in violation of the provisions of this chapter.

(12) Prepare an annual report.

(13) Share with the department of labor personal identifying information of persons licensed under the provisions of this chapter necessary for the department of labor to identify workforce shortage areas in Idaho. The information provided to the department of labor concerning any person licensed under this chapter shall remain confidential and not subject to public disclosure, as required in section 9-340C 74-106, Idaho Code.

SECTION 141. That Section 54-1806A, Idaho Code, be, and the same is hereby amended to read as follows:

54-1806A. **MEDICAL DISCIPLINARY ENFORCEMENT.** The board of medicine shall create a committee on professional discipline which shall have the authority under the direct supervision and control of the board to conduct professional disciplinary enforcement investigations under this chapter and particularly under sections 54-1810 and 54-1814, Idaho Code, and to recommend appropriate action to the board with respect thereto. The committee on professional discipline shall have no authority to impose sanctions or limitations or conditions on licenses issued under this chapter and shall be authorized only to make recommendations to the board with respect thereto. The board shall provide as follows respecting the committee on professional discipline:

(1) **Membership.** The committee shall consist of five (5) members appointed by the board. Initially, it shall consist of the members of the board of professional discipline as it is constituted on the effective date of this act who shall serve on the committee on professional discipline until the expiration of their current terms. Thereafter, it shall consist of four (4) members licensed to practice medicine and surgery in the state of Idaho, two (2) of whose terms shall expire at midnight on June 30 in each of two (2) successive years, and one (1) member who is an adult Idaho citizen of good character and reputation who shall not be licensed to practice medicine and surgery in the state of Idaho, whose term shall expire at midnight on June 30 in the year in which no physician member's term shall expire. All terms of appointment shall be for three (3) years. No member of the committee on professional discipline may be appointed after the effective date of this act to serve more than two (2) terms (which shall include terms served on the board of professional discipline prior to the effective date of this act).

(2) **Chairman.** The board of medicine shall designate one (1) member of the committee as its chairman who shall serve and function in that capacity for one (1) year or until a successor is duly appointed, whichever is later.

(3) **Quorum.** Three (3) members shall constitute a quorum though no meeting of the committee shall be held without reasonable prior notice of at least three (3) days to all members, which notice may be given by the chairman or any three (3) members. Notice may be waived unanimously; otherwise, it shall be in writing and state the time, place and purpose of the meeting.

(4) **Compensation.** Members of the committee shall be compensated as provided by section 59-509(n), Idaho Code, from the state board of medicine fund for expenses incurred in the course of serving on the committee.

(5) Conflicts and Disqualification. Members shall disqualify themselves and, on motion of any interested party may, on proper showing, be disqualified in any proceeding concerning which they have an actual conflict of interest or bias which interferes with their fair and impartial service.

(6) Additional Powers of the Committee on Professional Discipline. In addition to its other powers, the committee shall be empowered and authorized:

(a) To recommend to the board that it be authorized by the board to initiate or commence proceedings, studies or investigations, to investigate or inquire into misconduct or unprofessional behavior and to recommend that the board take such action with respect thereto as it deems best in the interest of the public and justice, and to obtain the assistance of staff and legal counsel hired by the board of medicine to administer, process and assist in its work.

(b) To recommend to the board that it be authorized by the board to appoint hearing officers or hearing committees to take evidence, conduct hearings and make recommended findings and conclusions to the committee in any matter or proceeding assigned to the committee, which hearing committees shall be of such number and size as the board directs, composed of licensed physicians resident and licensed to practice medicine and surgery in Idaho, who shall serve without pay and for such term as the board may specify, not to exceed one (1) year or during the pendency of any matters referred to it, whichever is longer. All investigations and proceedings of the committee and any hearing officers or hearing committees shall be conducted as provided by rules adopted by the board of medicine pursuant to the administrative procedure act, chapter 52, title 67, Idaho Code.

(c) To recommend findings respecting matters coming before it or before any hearing committee or authorized hearing officer acting on its behalf, and to recommend conclusions and orders for the consideration of the board dispositive of such proceedings. The committee may make recommendations for the consideration of the board and the board is authorized to enter appropriate orders and take appropriate action including, without limitation, disciplinary orders as provided by Idaho Code respecting misconduct or other grounds for discipline respecting any licensed physician and surgeon licensed to practice medicine and surgery in the state of Idaho, which authority shall, for good cause shown, include the power to suspend, restrict, condition, limit or revoke the license or present or future right or privilege to practice medicine of any physician, surgeon or other person licensed or purporting to be qualified or authorized to practice medicine and surgery in the state of Idaho.

(d) To recommend that the board reprimand by informal admonition any licensed physician and surgeon respecting any matter it finds is minor misconduct. Such reprimand shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

(e) To recommend that the board accept the resignation and surrender of license of any physician and surgeon under investigation or prosecution who tenders the same, and to impose terms and conditions in connection therewith as it may deem appropriate in the best interest of the public and of justice.

(f) To recommend that the board order, for good cause, nondisciplinary suspension or transfer to inactive status of any licensed physician and surgeon incapacitated by illness, senility, disability, or addiction to drugs, intoxicants or other chemical or like substances, and to provide terms and conditions therefor, including provisions and conditions controlling reinstatement and any request therefor; provided, this subparagraph shall not be construed to amend or repeal specific legislation expressly dealing with disabled physicians whether hereto-



fore or hereafter enacted by the legislature of the state of Idaho but rather shall be construed as complementary thereto.

(g) To recommend that the board provide by order for reciprocal discipline in cases involving the discipline of a licensed physician and surgeon disciplined in any other jurisdiction, provided that such licensee or applicant shall be entitled to appear and show cause why such order should not apply in his or her case.

(h) To recommend that the board adopt rules to provide for and permit the committee to conduct informal proceedings to encourage fair and expeditious disposition of business, complaints and matters properly coming before it.

(7) Openness. All formal hearings conducted by the board or by the committee under the board's direction and control shall be open to the public. Formal dispositions or other formal actions taken by the board under sections 54-1806 and 54-1806A, Idaho Code, also shall be public. Proceedings, studies and investigations which do not result in formal hearings, formal dispositions or other formal actions by the board shall be conducted in private and shall remain confidential.

(8) Voluntary Restriction of Licensure. A physician may request in writing to the board or the committee a restriction of his license to practice medicine and the board is authorized to grant such request and, if it deems it appropriate to do so, to attach conditions to the licensure of the physician to practice medicine. The board is also authorized in such cases thereafter to waive the commencement of proceedings under this act or other provisions of the medical practice act if in the interest of justice it determines that such voluntary proceedings have rendered the same unnecessary. Removal of a voluntary restriction on or suspension of licensure to practice medicine shall be subject to the procedures for reinstatement elsewhere in this act, in the medical practice act or by rule of the board; provided also, such reinstatements may be subject to further conditions specially imposed in the individual case as a condition of the order entered therein.

(9) Adjudication of Discipline or Exoneration. The board shall make a determination of the merits of all proceedings, studies and investigations and, if grounds therefor are found to exist, may issue its order:

- (a) Revoking the respondent physician's license to practice medicine;
- (b) Suspending or restricting the respondent physician's license to practice medicine;
- (c) Imposing conditions or probation upon the respondent physician and requiring rehabilitation planning, commitment and conditions upon such respondent physician's licensure;
- (d) Imposing an administrative fine not to exceed ten thousand dollars (\$10,000) for each count or offense; and/or
- (e) Assessing costs and attorney's fees against the respondent physician for any investigation and/or administrative proceeding.

If grounds for any of the foregoing are not found to exist, the board shall enter its order so stating and dismissing the proceedings and shall provide the respondent and, if there be one, the complainant or petitioner in the proceedings a true copy thereof.

(10) Temporary Suspension or Restriction Pending Final Order. The board may temporarily suspend or restrict the license of any physician or enter an appropriate order of temporary probation, ex parte, on its own motion or on verified petition of any person, pending further or final order, without prior hearing, simultaneously with or at any time after the institution of proceedings under this chapter, but only if it first finds, on the basis of a responsible showing which satisfactorily demonstrates that the physician in his capacity as such and for reasons set forth by petition, affidavit, or other verified showing, or determined by it in reliance upon other reliable proof, is causing great harm to the public or to any patient

or group of patients, or is imminently likely to cause such harm, for which reason he or she and his or her license to practice medicine should be immediately suspended or restricted or he or she should be specially controlled, suspended in or restricted from the practice of medicine. In such cases, the board may summarily, and ex parte, order temporary conditions of probation, suspension or restriction of said physician and his or her license and authority to practice medicine in the state of Idaho, pending further or final order in the proceedings. Thereafter the physician may, for good cause, request dissolution or amendment of any such temporary order by petition filed with the board, which petition shall be set for prompt hearing before the board or a designated hearing officer or special committee appointed by the board for that purpose, which officer or committee shall forthwith hear said matter and report to the board its report and recommendations. The board, consistent with due process and the rules adopted by the board pursuant to the administrative procedure act, chapter 52, title 67, Idaho Code, shall rule on such petition for dissolution or amendment with the least amount of delay reasonably possible. Neither the record of the proceeding nor any order entered therein may be used against the respondent physician in any other legal proceeding except upon judicial review as provided elsewhere herein.

(11) Judicial Review. All final decisions by the board shall be subject to judicial review pursuant to the procedures of the administrative procedure act, chapter 52, title 67, Idaho Code.

(12) Protected Action and Communication. There shall be no liability on the part of and no action for damages against:

(a) Any member of the board, the committee on professional discipline or the staff or officials thereof for any action undertaken or performed within the scope of the functions of the board or the committee under this chapter when acting without malice and in the reasonable belief that such action is warranted; or

(b) Any person providing information or testimony to the board, the committee, or their staff or officials without malice and in the reasonable belief that such information is accurate.

SECTION 142. That Section 54-1820, Idaho Code, be, and the same is hereby amended to read as follows:

54-1820. ACCESS TO RECORDS. All papers, records, correspondence, communications and proceedings of the Idaho state board of medicine shall be open and public except as otherwise provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 143. That Section 54-1837, Idaho Code, be, and the same is hereby amended to read as follows:

54-1837. PROCEEDINGS. (a) The board may proceed against a physician under this act by serving upon such physician at least fifteen (15) days' notice of a time and place fixed for a hearing, together with copies of the examining committee's report and diagnosis. Such notice and reports shall be served upon the physician either personally or by registered or certified mail with return receipt requested.

(b) At said hearing the physician shall have the right to be present, to be represented by counsel, to produce witnesses or evidence in his behalf, to cross-examine witnesses, and to have subpoenas issued by the board.

(c) At the conclusion of the hearing, the board shall make a determination of the merits and, if grounds therefor are found to exist, may issue an order imposing one or more of the following:

(1) Make a recommendation that the physician submit to the care, counseling, or treatment by physicians acceptable to the board; or

(2) Suspend or restrict the license of the physician to practice medicine for the duration of his impairment; or

(3) Revoke the license of the physician to practice medicine; and if grounds are not found to exist, the board shall enter its order so stating, shall dismiss the proceedings and shall provide the respondent a true copy thereof.

(d) The board may temporarily suspend or restrict the license of any physician or enter an appropriate order of temporary probation, ex parte, on its own motion or on petition of the examining committee, pending further or final order without prior hearing, simultaneously with or at any time after the institution of proceedings for a hearing under this section, but only if it first finds, on the basis of a responsible showing which satisfactorily demonstrates that the physician, in his capacity as such and for reasons set forth by petition, affidavit, or other verified showing, is causing great harm to the public, or to any patient or group of patients, or is likely to cause such harm and therefore should be immediately suspended, restricted or specially controlled in or from the practice of medicine.

(1) In such cases, the board may summarily, and ex parte, order temporary conditions of probation, suspension or restriction of said physician and his or her license and authority to practice medicine in the state of Idaho, pending further or final order in the proceedings.

(2) In cases of extreme emergency the board may enter said temporary order under this section without prior referral to or recommendation from the examining committee.

(3) In cases in which the examining committee first determines that such temporary suspension, restriction or probation of such physician is necessary and in the public interest pending the final conclusion of proceedings or further order, it shall so recommend to the board, and the board, if it finds that the evidence in support of such determination and recommendation is clear and convincing and that the physician's continuation in the practice would constitute an imminent danger to public health and safety or pose a threat or menace of the kind hereinabove specified, may, in its discretion, enter an order in keeping with the recommendation of the examining committee or provide such modifications, conditions or orders as it deems appropriate.

(4) The physician may, for good cause, request dissolution or amendment of any such temporary order by petition filed with the board, which petition shall be set for prompt hearing before the board or, if necessary and on request of the physician in the interest of early consideration, before a hearing officer or special committee designated by the board for that purpose, which officer or committee shall forthwith hear said matter and report to the board its report and recommendation. The board, consistent with due process, shall rule with the least amount of delay reasonably possible.

(e) Neither the record of the proceeding nor any order entered against a physician may be used against him in any other legal proceeding except upon judicial review as provided herein, it being the intent and purpose of this act that all evidence, testimony, showings and proceedings are subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, but not to be used in criminal or civil proceedings concerning the subject physician.

SECTION 144. That Section 54-2080, Idaho Code, be, and the same is hereby amended to read as follows:

54-2080. RECORDS -- DISCLOSURE TO PUBLIC. Records kept in the office of the commission under authority of this chapter and chapter 18, title 55, Idaho Code, shall be open to public inspection as provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 145. That Section 54-2118, Idaho Code, be, and the same is hereby amended to read as follows:

54-2118. VIOLATIONS OF CHAPTER -- REMEDIES AND PENALTIES. In addition to the disciplinary actions set forth in section 54-2115, Idaho Code:

(1) Administrative actions.

(a) Any person violating the provisions of this chapter, or violating a rule promulgated by the board to implement the provisions of this chapter may be fined by the board or its duly authorized agent not more than five thousand dollars (\$5,000) for each offense and shall be liable for investigatory expenses and reasonable paralegal and attorney's fees, and provided that each act on each day of violation shall constitute a separate offense. Imposition of a fine may be made in conjunction with any other board administrative action. No fine may be assessed unless the person charged was given notice and opportunity for a hearing pursuant to the Idaho administrative procedure act. If a person fined fails to fully pay the fine, investigatory expenses or reasonable paralegal and attorney's fees, the board may recover such amount by action in the appropriate district court.

(b) Notwithstanding the provisions of subsection (1)(a) of this section, any person who has violated the recordkeeping or continuing education requirements imposed by this chapter or the rules of the board may, in lieu of disciplinary proceedings under this chapter or the Idaho administrative procedure act, elect to pay the board a civil penalty to be determined by the board, or its authorized agent, in an amount between five hundred dollars (\$500) and one thousand dollars (\$1,000), under the following terms and conditions:

(i) The person must not have been disciplined by the board for any reason within the past five (5) years;

(ii) The person must not have previously elected to pay a penalty under this section;

(iii) The person is not currently on probation by the board;

(iv) The person is not currently under investigation by the board for an offense other than the recordkeeping or continuing education violation; and

(v) The person must fully comply with the board's instructions on remedying the recordkeeping or continuing education violation.

Upon successful completion of the above terms and conditions and payment of the civil penalty, the violation shall not be considered "discipline," shall not be reported to any national disciplinary database, and documents and records related to the violation shall be exempt from disclosure under ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

(2) Civil court proceedings. The board, the attorney general's office, a county prosecuting attorney or any citizen of this state may bring an action in the district court of either Ada county or any county where a violation is occurring, to enjoin any person from practicing veterinary medicine or practicing as a certified veterinary technician, certified euthanasia technician or any agency operating as a certified euthanasia agency without a currently valid, active license, certification, temporary permit or temporary certification. If the court finds that the person is violating the provisions of this chapter, it shall enter an injunction restraining that person from such unlawful acts.

(3) Criminal actions. Any person who practices veterinary medicine, any person practicing as a certified veterinary technician, a certified euthanasia technician or any agency operating as a certified euthanasia agency without a currently valid, active license, certification, temporary permit or temporary certification shall be guilty of a misdemeanor and upon conviction or withheld judgment shall be fined not less than one hundred dollars (\$100), nor more than ten thousand dollars (\$10,000), or incarcerated for no

more than one hundred eighty (180) days, or both fined and incarcerated, and provided that each act of such unlawful practice shall constitute a distinct and separate offense.

(4) The remedies set forth in this section are not mutually exclusive and a successful action on any one (1) remedy does not preclude action on some or all of the other remedies.

SECTION 146. That Section 54-2221, Idaho Code, be, and the same is hereby amended to read as follows:

54-2221. DISCIPLINARY ACTIONS -- PENALTIES. The board may, upon proof that a person has violated any provision contained in this chapter, take the following disciplinary actions singly or in combination:

(1) Issue a censure or reprimand by informal admonition for minor misconduct found by the board, which censure or reprimand shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code;

(2) Impose restrictions and/or conditions as to scope of practice, place of practice, supervision of practice, duration of licensed status, or type or condition of patient or client served. The board may require a licensee to report regularly to the board on matters regarding the restricted license;

(3) Suspend a license, the duration of which shall be determined by the board;

(4) Revoke a license;

(5) Refuse to issue or renew a license;

(6) Impose a reasonable fine for violation of this chapter in an amount not to exceed a maximum amount as set forth in the administrative rules adopted by the board;

(7) Accept a voluntary surrender of a license;

(8) Assess costs and attorney's fees against a licensee for any investigation and/or administrative proceeding.

SECTION 147. 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 subsequent editions, amendments or revisions thereto shall be adopted by the Idaho plumbing board 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~~ 74-204, 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 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.

SECTION 148. That Section 54-3204, Idaho Code, be, and the same is hereby amended to read as follows:

54-3204. BOARD -- POWERS AND DUTIES. The board shall have the following powers and duties:

(1) Adopt and amend rules to administer and carry out the provisions of this chapter and for the conduct of its affairs, provided that such rules shall be promulgated in accordance with the provisions of chapters 26 and 52, title 67, Idaho Code;

(2) Maintain a list of the names and addresses of all persons licensed under this chapter;

(3) At its discretion, contract with the bureau of occupational licenses for those services deemed necessary for the proper administration of this chapter;

(4) To prescribe by rule the minimum amount and kind of continuing education to be required of each social worker seeking to renew a license in the state of Idaho;

(5) To establish by rule an inactive license status;

(6) To take such action as may be necessary to enforce the provisions of this chapter and to regulate the practice of social work;

(7) To review the practice of a social worker licensed pursuant to this chapter who is the subject of a complaint regarding a potential violation of the provisions of this chapter. This review may include client records, notes of the license holder and other materials related to the practice. The review will remain subject to nondisclosure according to the provisions of ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, unless the written consent of the client is received by the board;

(8) To establish by rule the standards and requirements for the use of communication technology in the practice of social work, including supervision.

SECTION 149. 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~~ chapter 1, title 74, 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.

(11) To establish by rule the standards and requirements for the use of communication technology in the practice of counseling and marriage and family therapy, including supervision.

SECTION 150. That Section 54-3913, Idaho Code, be, and the same is hereby amended to read as follows:

54-3913. BOARD OF MEDICINE AND BOARD OF ATHLETIC TRAINERS -- POWERS AND DUTIES. (1) The board shall administer, coordinate, and enforce the provisions of this chapter, evaluate the qualifications and fitness of applicants, and approve the applications for licensure under this chapter, and may issue subpoenas, examine witnesses, and administer oaths, and may investigate practices which are alleged to violate the provisions of this chapter. The board of athletic trainers shall evaluate all applicants for qualification and fitness for licensure and make recommendations to and consult with the board concerning issuance of licenses, revocation of licenses and rules to be promulgated under this chapter.

(2) The board shall, upon recommendation of the board of athletic trainers, adopt rules pursuant to chapter 52, title 67, Idaho Code, relating to professional conduct to carry out the policy of this chapter including, but not limited to, rules relating to professional licensure and to the establishment of ethical standards of practice, disciplinary proceedings, refusal to renew license proceedings, license suspension proceedings, or license revocation proceedings for persons licensed to practice as an athletic trainer in this state.

(3) The board of athletic trainers shall hold meetings, conduct hearings and keep records and minutes as are necessary to carry out its functions.

(4) Every person licensed as an athletic trainer in Idaho shall be subject to discipline pursuant to the powers set forth in this chapter and the rules of the board of medicine promulgated pursuant thereto. The board of athletic trainers shall have no authority to impose sanctions or limitations or conditions on licenses issued under this chapter and shall be authorized only to make recommendations to the board with respect thereto. Members of the board of athletic trainers shall disqualify themselves and, on motion of any interested party, may on proper showing, be disqualified in any proceeding concerning which they have an actual conflict of interest or bias which interferes with their fair and impartial service.

(5) In addition to its other powers, the board of athletic trainers shall be empowered and authorized:

(a) To recommend that the board reprimand by informal admonition any licensed athletic trainer respecting any matter it finds is minor misconduct. Such reprimand shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

(b) To recommend that the board order, for good cause, nondisciplinary suspension or transfer to inactive status of any licensed athletic trainer incapacitated by illness, senility, disability, or addiction to drugs, intoxicants or other chemical or like substances, and to provide terms and conditions therefor, including provisions and conditions controlling reinstatement and any request therefor; provided, this paragraph shall not be construed to amend or repeal specific legislation expressly dealing with disabled athletic trainers whether heretofore or hereafter enacted by the legislature of the state of Idaho, but rather shall be construed as complementary thereto.

(c) To recommend that the board accept the resignation and surrender of the license of any athletic trainer under investigation or prosecution who tenders the same, and to impose terms and conditions in connection therewith as it may deem appropriate in the best interests of the public and of justice.

(d) To recommend that the board provide by order for reciprocal discipline in cases involving a licensed athletic trainer or applicant disciplined in any other jurisdiction, provided that such licensee or applicant shall be entitled to appear and show cause why such order should not apply in his or her case.

(e) To recommend that the board provide for reasonable fees through rules for administrative costs and assess costs reasonably and necessarily incurred in the enforcement of this chapter when a licensee or applicant has been found to be in violation of this chapter.

SECTION 151. That Section 54-4603, Idaho Code, be, and the same is hereby amended to read as follows:

54-4603. PATIENT ACCESS TO PROVIDER INFORMATION. (1) Each person who applies for initial licensure or registration as a provider must, at the time of licensure or registration, and each provider who applies for license or registration renewal must, in conjunction with the renewal of a license or



registration, and under procedures which shall be adopted by the board, and in addition to any other information that may be required from the applicant, furnish the following information to the board:

- (a) Names and addresses of medical/professional schools or other institutions of higher learning that provider attended, including any graduate education, and dates of graduation;
- (b) Speciality certifications that are recognized by the board;
- (c) Appointments to faculty of any medical/professional school and indication whether provider has had a responsibility for graduate education within the most recent ten (10) years (optional);
- (d) Location and type of practice for the most recent ten (10) years;
- (e) Current location of provider's primary practice setting, and if more than one (1) setting, the approximate percentage of time spent at each location;
- (f) The hospital(s) that serves as the provider's primary admitting facility and at which the provider has active clinical privileges in good standing;
- (g) Disclosure of whether the provider participates in medicaid and medicare programs (but not necessarily accepting new patients), or has ever been barred from participation in either program;
- (h) Disclosure of any translating services that may be available at the provider's practice location(s) (optional);
- (i) Description of any criminal convictions for felonies or other crimes of moral turpitude within the most recent ten (10) years. For purposes of this subsection, a person shall be deemed convicted of a crime if he pled guilty or if he was found or adjudged guilty by a court of competent jurisdiction;
- (j) Description of any final board disciplinary actions within the most recent ten (10) years that are considered to be public in accordance with the provisions of ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code;
- (k) Description of any final disciplinary actions by a board from any other state including, but not limited to, revocation or suspension of license, within the most recent ten (10) years;
- (l) Description of revocation or involuntary restriction of hospital privileges, or a reduction in credentialing for more than one hundred eighty (180) days, from any state, for reasons related to competence or character, that have been taken by a hospital's governing body or any other official of a hospital after procedural due process has been afforded; or the resignation from or nonrenewal of a medical staff membership, or the restriction of privileges at a hospital taken in lieu of or in settlement of a pending disciplinary case related to competence or character in that hospital, within the most recent ten (10) years;
- (m) Whether the provider carries professional malpractice insurance, and if not, has ever been denied malpractice insurance;
- (n) Disclosure of all malpractice court judgments and all malpractice arbitration awards in which a payment was awarded to a complaining party during the most recent ten (10) years. Pending malpractice claims shall not be disclosed by the board to patients; however, nothing herein shall be construed to prevent the board from investigating and disciplining a provider on the basis of pending malpractice claims.
- (o) Disclosure of settlements of professional malpractice claims within the most recent five (5) years of continuous practice;
  - (i) Providers need only disclose malpractice settlements if there have been five (5) or more settlements in the most recent five (5) years of continuous practice, of fifty thousand dollars (\$50,000), or more, per settlement, or if there have been more than ten (10) settlements within the most recent five (5) years of continuous practice of any dollar amount;

(ii) Settlements that result solely in an adjustment to the fee charged for a provider's services shall not be disclosed pursuant to this chapter;

(iii) Information concerning all settlements shall be accompanied by the following statement: "Settlement of a claim may occur for a variety of reasons which do not necessarily reflect negatively on the professional competence or conduct of a provider. A payment in settlement of a malpractice action or claim should not be construed as creating presumption that malpractice has occurred. Malpractice histories tend to vary by speciality. Some specialities are more likely than others to be the subject of litigation.";

(iv) Nothing herein shall be construed to limit or prevent the board from providing further explanatory information regarding settlements;

(p) Percentage of ownership interest provider has in other health facilities, laboratories, equipment or therapy, except for ownership interest in the primary practice business, to which the provider's patients are, have been, or may be referred.

(2) Each profile submitted by a provider must include a statement, signed under oath, by the provider attesting to the correctness and completeness of the information contained in the profile.

(3) The board shall not be held liable for the correctness or completeness of the information contained in the provider profiles, and shall include a disclaimer statement on all released profiles, attesting to the self-reporting nature of the program, and that the information has not been verified by the board.

(4) The board shall, at the time of issuing a new license or registration, or in conjunction with license or registration renewal, collect and maintain the information required in this chapter, as submitted by the provider, for the purpose of creating individual profiles on providers that shall be made available to the public as provided in this chapter.

(5) No state law that would otherwise prohibit, limit, or penalize disclosure of information about a provider shall apply to disclosure of information required by this chapter.

(6) If a provider fails to comply with the provisions of this chapter with full and truthful disclosure of information to the board within the time specified by the board, the board may:

(a) Fine the provider up to fifty dollars (\$50.00) for each day that the provider is not in compliance with the provisions of this chapter;

(b) Take any other disciplinary action it deems appropriate, except the board may not revoke, suspend, refuse to issue or refuse to renew a provider's license or registration solely because the provider failed to comply with the provisions of this chapter.

SECTION 152. That Section 56-209j, Idaho Code, be, and the same is hereby amended to read as follows:

56-209j. SUBSTANCE ABUSE SCREENING AND TESTING PROGRAMS. (1) The department of health and welfare shall develop for implementation in fiscal year 2001, a program to screen each applicant who is otherwise eligible for temporary cash assistance provided under this chapter, and to subject to testing any applicant or participant who the department has reasonable suspicion to believe, based on the screening or other factors, is at risk of substance abuse.

(2) Prior to the first regular session of the fifty-sixth Idaho legislature, the department shall promulgate the necessary rules, pursuant to chapter 52, title 67, Idaho Code, to govern substance abuse screening and testing for TAFI programs. Rules shall, at a minimum:

- (a) Specifically address the confidentiality of the screening and test results, and provide that individual results are protected under section 9-340C 74-106(6), Idaho Code, and are not subject to disclosure except to an evaluating or treating substance abuse program, and cannot be released for use in any criminal investigation or proceeding;
- (b) Provide notice of screening and testing requirements to each applicant at the time of application. The notice must, at a minimum, advise the applicant that substance abuse screening and possible testing will be conducted as a condition for receiving temporary assistance or services under this chapter. The applicant shall be advised that the required screening and possible testing may be avoided if the applicant does not apply for or receive assistance or services. The screening and testing program is not applicable in child only cases;
- (c) Develop procedures for substance abuse screening and testing of applicants for and recipients of temporary assistance or services under the TAFI program;
- (d) Provide a procedure to advise each person to be tested, before the test is conducted, that he or she may, but is not required to, advise the agent administering the test of any prescription or over-the-counter medication he or she is taking;
- (e) Require each person to be tested to sign a written acknowledgment that he or she has received and understood the notice and advice provided under paragraphs (a) and (d) of this subsection;
- (f) Provide a procedure to assure each person being tested a reasonable degree of dignity while producing and submitting a sample for drug testing, consistent with the state's need to ensure the reliability of the sample;
- (g) Specify circumstances under which a person who tests positive has the right to take one (1) or more additional tests;
- (h) Provide a procedure for appealing the results of a test by a person who tests positive, and denial of TAFI services or benefits;
- (i) Provide a definition for reasonable suspicion and high risk;
- (j) Delineate the substances which will be screened;
- (k) Establish outcome measures which can substantiate program effectiveness.

SECTION 153. That Section 56-221, Idaho Code, be, and the same is hereby amended to read as follows:

56-221. CONFIDENTIAL CHARACTER OF PUBLIC ASSISTANCE RECORDS. The rule-making power of the state department shall include the power to establish and enforce reasonable rules and regulations governing the custody, use and preservation of the records, papers, files and communications of the state department. Wherever, under provisions of law, names and addresses of recipients of public assistance are furnished to or held by any state or county official, the names and addresses shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code; but any exemption from disclosure shall not prevent the furnishing to a state or local law enforcement officer, upon his written request, with the current address of any AFDC recipient if the officer furnishes the state department with such recipient's name and social security account number and proof that such recipient is a convicted fugitive felon or an indicted fugitive felon, or a person for whom a fugitive warrant has been issued, and that the location or apprehension of such felon or person is within the officer's official duties, and that the request is made in the proper exercise of those duties.

SECTION 154. That Section 56-231, Idaho Code, be, and the same is hereby amended to read as follows:

56-231. PUBLIC ASSISTANCE IN LOCATING AND DETERMINING THE FINANCIAL RESOURCES OF PARENTS AND OTHER PERSONS LIABLE FOR SUPPORT OF DEPENDENTS. To assist in locating and determining the financial resources of parents who have deserted their children and other persons liable for support of dependents, the department of health and welfare and county prosecuting attorneys may request and shall receive information from the records of all departments, boards, bureaus or other agencies of this state, and may request and may receive information from businesses and financial entities; and the same are authorized to provide such information as is necessary for this purpose, notwithstanding any provisions of ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, making the information exempt from disclosure. There shall be no legal sanctions imposed against a business or financial entity which refuses to provide requested information, unless the business or financial entity has been served with a subpoena requesting the information. Only information directly bearing on the identity, financial resources, and whereabouts of a person owing or asserted to be owing an obligation of support shall be requested and used or transmitted by the department of health and welfare and county prosecuting attorneys pursuant to the authority conferred by this act. The department of health and welfare and county prosecuting attorneys may make such information available only to public officials and agencies of this state, other states and the political subdivisions of this state and other states seeking to locate parents who have deserted their children and other persons liable for support of dependents for the purpose of enforcing their liability for support.

SECTION 155. That Section 57-133B, Idaho Code, be, and the same is hereby amended to read as follows:

57-133B. UNLAWFUL DISCLOSURE OF INFORMATION RELATING TO DESIGNATED DEPOSITORIES -- PENALTY. Any information obtained from any designated depository by the treasurer of a depositing unit shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, provided that federal or state examiners shall have a lawful right to examine said designated depository or to proper officials legally empowered to investigate criminal charges relating to said designated depository shall have a right to examine said depository. Any public official who violates any provision of this section by improperly disclosing information shall forfeit his office or employment and shall also be guilty of a felony. Any person who is not lawfully entitled to such information and who attempts to obtain such information illegally or who misuses such information as he may have obtained shall be guilty of a felony.

SECTION 156. That Section 57-911, Idaho Code, be, and the same is hereby amended to read as follows:

57-911. PUBLIC RECORDS -- LOCATIONS. (1) Records, with regard to the ownership of or security interests in registered public obligations shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

(2) Registration records of the issuer may be maintained at such locations within or without this state as the issuer shall determine.

SECTION 157. That Section 58-126, Idaho Code, be, and the same is hereby amended to read as follows:

58-126. INFORMATION REGARDING STATE LANDS. Information concerning the selection or appraisal of any state lands, or the timber thereon, or any information in regard to such land shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 158. That Section 59-1316, Idaho Code, be, and the same is hereby amended to read as follows:

59-1316. MEMBER'S RETIREMENT RECORDS CONFIDENTIAL. (1) Each member shall furnish the board with such information as the board shall deem necessary for the proper operation of the system. As provided in section 9-340C 74-106, Idaho Code, information contained in the retirement system mortgage portfolio loan documents and in each member's retirement system records is confidential and may not be divulged except as ordered by a court; or except as may be required by the employer member or by the retirement board and its staff in order to carry into effect the purposes of this chapter.

(2) A member may by his written authorization release specific information from his own retirement system records to a stated designee. If the member is deceased, the member's contingent annuitant or beneficiary may, by written authorization, release specific information from the member's retirement system records to a stated designee.

(3) The retirement system may disclose the identity of a deceased member's beneficiary to the member's spouse, children, and to the court-appointed administrator of the member's estate.

(4) Should a court order direct distribution or partial distribution of a member's benefit as defined in either chapter 13, title 59, Idaho Code, or chapter 14, title 72, Idaho Code, to the member's spouse or former spouse, the system may release to the spouse, former spouse, or the court issuing the order, information pertaining to the division or segregation of the member's accounts or benefit. This information includes account balances, service accumulations, and related information and histories, but does not include current addresses and phone numbers. The system may release the same information to a member's current spouse at any time, regardless of whether a court has ordered a distribution or division of the member's account.

SECTION 159. That Section 63-602G, Idaho Code, be, and the same is hereby amended to read as follows:

63-602G. PROPERTY EXEMPT FROM TAXATION -- HOMESTEAD. (1) During the tax year 2006 and each year thereafter, subject to annual adjustment as provided herein, the first seventy-five thousand dollars (\$75,000) of the market value for assessment purposes of the homestead as that term is defined in section 63-701, Idaho Code, or fifty percent (50%) of the market value for assessment purposes of the homestead as that term is defined in section 63-701, Idaho Code, whichever is the lesser, shall be exempt from property taxation. Beginning for tax year 2007, the state tax commission shall publish adjustments to the maximum amount subject to property tax exemption to reflect cost-of-living fluctuations. The adjustments shall effect changes in the amount subject to tax exemption by a percentage equal as near as practicable to the annual change in the Idaho housing price index as determined by the United States office of federal housing enterprise oversight. The state tax commission shall publish the adjustments required by this subsection each and every year the office of federal housing enterprise oversight announces a change in the Idaho housing price index. The adjustments shall be published no later than October 1 of each year and shall be effective for claims filed in and for the following property tax year. The publication of adjustments under this subsection shall be exempt from the provisions of chapter 52, title 67, Idaho Code, but shall be provided to each county and to members of the public upon request and without charge.

(2) The exemption allowed by this section may be granted only if:

(a) The homestead is owner-occupied and used as the primary dwelling place of the owner as of January 1, provided that in the event the homestead is owner-occupied after January 1 but before April 15, the owner of the property is entitled to the exemption. The homestead may consist

of part of a multidwelling or multipurpose building and shall include all of such dwelling or building except any portion used exclusively for anything other than the primary dwelling of the owner. The presence of an office in a homestead, which office is used for multiple purposes, including business and personal use, shall not prevent the owner from claiming the exemption provided in this section; and

(b) The state tax commission has certified to the board of county commissioners that all properties in the county which are subject to appraisal by the county assessor have, in fact, been appraised uniformly so as to secure a just valuation for all property within the county; and

(c) The owner has certified to the county assessor by April 15 that:

(i) He is making application for the exemption allowed by this section;

(ii) The homestead is his primary dwelling place; and

(iii) He has not made application in any other county for the exemption, and has not made application for the exemption on any other homestead in the county.

(d) For the purpose of this section, the definition of "owner" shall be the same definition set forth in section 63-701(7), Idaho Code.

When an "owner," pursuant to the provisions of section 63-701(7), Idaho Code, is any person who is the beneficiary of a revocable or irrevocable trust, or who is a partner of a limited partnership, a member of a limited liability company, or shareholder of a corporation, he or she may provide proof of the trust, limited partnership, limited liability company, or corporation in the manner set forth in section 63-703(4), Idaho Code.

(e) Any owner may request in writing the return of all copies of any documents submitted with the affidavit set forth in section 63-703(4), Idaho Code, that are held by a county assessor, and the copies shall be returned by the county assessor upon submission of the affidavit in proper form.

(f) For the purpose of this section, the definition of "primary dwelling place" shall be the same definition set forth in section 63-701(8), Idaho Code.

(g) For the purpose of this section, the definition of "occupied" shall be the same definition set forth in section 63-701(6), Idaho Code.

(3) An owner need only make application for the exemption described in subsection (1) of this section once, as long as all of the following conditions are met:

(a) The owner has received the exemption during the previous year as a result of his making a valid application as defined in subsection (2)(c) of this section.

(b) The owner or beneficiary, partner, member or shareholder, as appropriate, still occupies the same homestead for which the owner made application.

(c) The homestead described in subsection (3)(b) of this section is owner-occupied or occupied by a beneficiary, partner, member or shareholder, as appropriate, and used as the primary dwelling place of the owner or beneficiary, partner, member or shareholder, as appropriate, as of January 1; provided however, that in the event the homestead is owner-occupied after January 1, but before April 15, the owner of the property is entitled to the exemption.

(4) The exemption allowed by this section must be taken before the reduction in taxes provided by sections 63-701 through 63-710, Idaho Code, is applied.

(5) Recovery of property tax exemptions allowed by this section but improperly claimed or approved:

(a) Upon discovery of evidence, facts or circumstances indicating any exemption allowed by this section was improperly claimed or approved,

the county assessor shall decide whether the exemption claimed should have been allowed, and if not, notify the taxpayer in writing, assess a recovery of property tax and notify the county treasurer of this assessment. If the county assessor determined that an exemption was improperly approved as a result of county error, the county assessor shall present the discovered evidence, facts or circumstances from the improperly approved exemption to the board of county commissioners, at which time the board may waive a recovery of the property tax and notify such taxpayer in writing.

(b) When information indicating that an improper claim for the exemption allowed by this section is discovered by the state tax commission, the state tax commission may disclose this information to the appropriate county assessor, board of county commissioners and county treasurer. Information disclosed to county officials by the state tax commission under this subsection may be used to decide the validity of any entitlement to the exemption provided in this section and is not otherwise subject to public disclosure pursuant to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

(c) The assessment and collection of the recovery of property tax must begin within the seven (7) year period beginning the date the assessment notice reflecting the improperly claimed or approved exemption was required to be mailed to the taxpayer.

(d) The taxpayer may appeal to the county board of equalization the decision by the county assessor to assess the recovery of property tax within thirty (30) days of the date the county assessor sent the notice to the taxpayer pursuant to this section. The board may waive the collection of all or part of any costs, late charges and interest, in order to facilitate the collection of the recovery of the property tax.

(e) For purposes of calculating the tax, the amount of the recovered property tax shall be for each year the exemption allowed by this section was improperly claimed or approved, up to a maximum of seven (7) years. The amount of the recovery of property tax shall be calculated using the product of the amount of exempted value for each year multiplied by the levy for that year plus costs, late charges and interest for each year at the rates equal to those provided for delinquent property taxes during that year.

(f) Any recovery of property tax shall be due and payable no later than the date provided for property taxes in section 63-903, Idaho Code, and if not timely paid, late charges and interest, beginning the first day of January in the year following the year the county assessor sent the notice to the taxpayer pursuant to this section, shall be calculated at the current rate provided for property taxes.

(g) Recovered property taxes shall be billed, collected and distributed in the same manner as property taxes, except each taxing district or unit shall be notified of the amount of any recovered property taxes included in any distribution.

(h) Thirty (30) days after the taxpayer is notified, as provided in subsection (5) (a) of this section, the assessor shall record a notice of intent to attach a lien. Upon the payment in full of such recovered property taxes prior to the attachment of the lien as provided in subsection (5) (i) of this section, or upon the successful appeal by the taxpayer, the county assessor shall record a rescission of the intent to attach a lien within seven (7) business days of receiving such payment or within seven (7) business days of the county board of equalization decision granting the appeal. If the real property is sold to a bona fide purchaser for value, prior to the recording of the notice of the intent to attach a lien, the county assessor and treasurer shall cease the recovery of such unpaid recovered property tax.

(i) Any unpaid recovered property taxes shall become a lien upon the real property in the same manner as provided for property taxes in section 63-206, Idaho Code, except such lien shall attach as of the first day of January in the year following the year the county assessor sent the notice to the taxpayer pursuant to this section.

(j) For purposes of the limitation provided by section 63-802, Idaho Code, moneys received pursuant to this subsection as recovery of property tax shall be treated as property tax revenue.

(6) The legislature declares that this exemption is necessary and just.

(7) A homestead, having previously qualified for exemption under this section in the preceding year, shall not lose such qualification due to: the owner's, beneficiary's, partner's, member's or shareholder's absence in the current year by reason of active military service, or because the homestead has been leased because the owner, beneficiary, partner, member or shareholder is absent in the current year by reason of active military service. An owner subject to the provisions of this subsection must apply for the exemption with the county assessor every year on or before a deadline date as specified by the county assessor for the county in which the homestead is claimed. If an owner fails to apply on or before the established deadline, the county may, at its discretion, discontinue the exemption for that year.

(8) A homestead, having previously qualified for exemption under this section in the preceding year, shall not lose such qualification due to the owner's, beneficiary's, partner's, member's or shareholder's death during the year of the owner's, beneficiary's, partner's, member's or shareholder's death and the tax year immediately following such death provided that the homestead continues to be a part of the owner's, beneficiary's, partner's, member's or shareholder's estate. After such time the new owner shall reapply to receive the exemption pursuant to this section and shall meet the qualification criteria contained in this section.

SECTION 160. 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 74-107, 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. 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. 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 161. That Section 63-3045B, Idaho Code, be, and the same is hereby amended to read as follows:

63-3045B. FINAL DECISIONS OF THE COMMISSION. (1) If a taxpayer does not file a protest within the sixty-three (63) day period allowed, the notice of deficiency of the tax commission becomes final on the day following the end of the protest period.

(2) If a taxpayer files a protest, but does not perfect the protest, request a hearing, or does not submit additional evidence or documentation, or does not request additional time in which to respond, the notice of deficiency of the tax commission becomes final on the twenty-ninth day following the date the tax commission notified the taxpayer that the protest was not perfected, except that the tax commission may reduce the amount of the deficiency during the twenty-nine (29) day period.

(3) When a perfected protest has been filed, the state tax commission shall, within fourteen (14) days thereof, provide the taxpayer with a written acknowledgement of the protest. After the acknowledgement, a final decision of the tax commission must be rendered within one hundred eighty (180) days from either:

(a) A request in writing, in a form prescribed by rules of the tax commission, from the taxpayer for a final decision on that issue; if the taxpayer requests such a decision, the tax commission may refuse to accept additional evidence or documentation or refuse to allow an appearance at any proceeding with the commission or any representative of the commission during such one hundred eighty (180) day period.

(b) The conclusion of any hearing pursuant to section 63-3045(2), Idaho Code, and the taxpayer has not requested or received any extension of time to present additional evidence or testimony.

(4) A final decision may be held in abeyance, notwithstanding the requirements of subsection (3) of this section, with the prior approval in writing of the taxpayer.

(5) If a final decision of the tax commission is not rendered or the protest is not resolved by compromise, consent or withdrawal of the notice of deficiency determination within the time limits established by subsection (3) of this section, the notice of deficiency shall be null and void ab initio, with prejudice.

(6) A final decision of the tax commission shall be issued in writing and mailed or served upon the taxpayer within the time limits set forth herein. The final written decision of the tax commission shall, one hundred twenty (120) days after the date of the final written decision, be available for public inspection and copying pursuant to the provisions of section 9-338 74-102, Idaho Code, except:

(a) The taxpayer's name, address, taxpayer identification number, social security number, permit number, or other identifying information shall be removed from the final written decision of the tax commission that is made available to the public; and

(b) Any proprietary or other identifying information contained in the written decision that the taxpayer requests be excised shall be excised by the tax commission in the final written decision made available to the public. The taxpayer must make such request in writing before ninety-one (91) days have elapsed after the date of the final decision.

(7) The tax commission shall label each written decision with a unique identification number and shall keep a list containing each decision number and the date of issuance, as excised in accordance with the provisions of this section. A decision shall serve as precedent for the tax commission in future protest determinations unless information excised, court decisions, changes in the Idaho Code, or changes in applicable administrative rules overrule, supersede, modify, distinguish, or otherwise make inapplicable the written decision of the tax commission.

SECTION 162. That Section 63-3077, Idaho Code, be, and the same is hereby amended to read as follows:

63-3077. INFORMATION FURNISHED TO CERTAIN OFFICIALS. (1) The state tax commission, under such rules as it may prescribe, may disclose tax returns or tax information to:

(a) The commissioner of internal revenue of the United States or his delegate or the financial management services of the department of the treasury of the United States; or

(b) The proper officer of any state imposing a tax similar to a tax to which this section applies or the multistate tax commission or its delegate or the governing entity of the international fuels tax agreement or its delegate;

of any taxpayer making or who may be required to make returns, with the state tax commission or may furnish to such officer or his authorized representative an abstract or copy of any tax return or tax information or any information disclosed by the report of any audit or investigation relating to any taxpayer; but such permission shall be granted or information furnished to such officer or his representatives only if the statutes of the United States or such other state, as the case may be, grant substantially similar privileges to the state tax commission.

(2) Notwithstanding the provisions of this chapter as to secrecy, any duly constituted committee of either branch of the state legislature shall have the right to inspect returns upon request.

(3) Nothing in this chapter shall prohibit a taxpayer, or his authorized representative, upon proper identification, from inspecting or obtaining a copy of his own tax returns or tax information or authorizing, in writing, the disclosure of information to a third party.

(4) Any resident or part-year resident individual taxpayer making an income tax return, shall furnish the state tax commission with the location

of any residential property owned by the taxpayer and occupied by the taxpayer as his primary dwelling place on the first day of January of the year following the year to which the tax return relates. The state tax commission is hereby authorized and empowered to deliver to the county assessor of any county of the state of Idaho information relating to a taxpayer's place of residence or domicile. The information may be used by county assessors and boards of equalization to assist in determining the validity of any homeowner's entitlement to the exemption provided in section 63-602G, Idaho Code. Information disclosed to county officials under this subsection may be used only to determine the validity of any homeowner's entitlement to the exemption provided in section 63-602G, Idaho Code, and is not otherwise subject to public disclosure.

(5) The state tax commission additionally is authorized to utilize any centralized state computer facility.

(6) Nothing in this section or section 63-3076, Idaho Code, shall require the state tax commission to disclose information not required to be disclosed under the provisions of ~~sections 9-335 through 9-348~~ chapter 1, title 74, Idaho Code, or prevent the state tax commission from disclosing the current validity of any permit or license issued by the state tax commission or information that is otherwise publicly available.

SECTION 163. That Section 65-301, Idaho Code, be, and the same is hereby amended to read as follows:

65-301. PERFORMANCE WITHOUT FEE -- SERVICES ENUMERATED. (1) Any state, county, city or public officer, or board, or body, acting in his or her or its official capacity on behalf of the state, county, or city, including notaries public, shall not collect, demand or receive any fee or compensation for recording or indexing the discharge papers of any male or female veteran who had active service in any war or conflict officially engaged in by the government of the United States; or for issuing certified copies thereof, or for any service whatever rendered by any such officer or officers, in the matter of a pension claim, application, affidavit, voucher, or in the matter of any claim to be presented to the United States department of veterans affairs or for the purposes of securing any benefits under acts of congress providing pension benefits for honorably discharged veterans of any war, and all acts or parts of acts amendatory thereto, or for furnishing a certified copy of the public record of a marriage, death, birth, divorce, deed of trust, mortgage, or property assessment, or making a reasonable search for the same, wherein the same is to be used in a claim for pension, or a claim for allotment, allowance, compensation, insurance, automatic insurance, or otherwise provided for by any and all legislation by congress providing pension benefits for honorably discharged veterans of any war.

(2) Any veteran wishing to record his or her discharge papers may do so with personal identifying information such as date of birth, social security number, home address(es), blood type and other personal identifying information redacted from the document. The name of the veteran may not be redacted from the document.

(3) Any veteran or surviving spouse of any veteran of the United States armed forces or his or her surviving spouse, attorney, personal representative, executor or court appointed guardian has the right to request that a county recorder remove from the official records any of the following forms recorded before, on or after July 1, 2003, by or on behalf of the requesting veteran: DD-214; DD-215; WD AGO 53; WD AGO 55; WD AGO 53-55; NAVMC 78-PD; and NAVPERS 553. The request must specify the identification page number of the form to be removed. The request shall be made in person and with appropriate identification to allow determination of identity. The county recorder has no duty to inquire beyond the requestor to verify the identity of the person requesting removal. No fee shall be charged for the removal. Any paper and

reasonably retrievable electronic likeness, the removal of which will not affect other recorded documents, shall be removed from the record.

(4) No DD-214, DD-215, WD AGO 53, WD AGO 55, WD AGO 53-55, NAVMC 78-PD, and NAVPERS 553, which is recorded at the request of any veteran of the United States armed forces or his or her surviving spouse, attorney, personal representative, executor or court appointed guardian shall be a public record subject to release by the provisions of ~~sections 9-337 through 9-352~~ chapter 1, title 74, Idaho Code, without the express written consent of one (1) of the above enumerated individuals.

(5) Nothing in this section shall create or permit any cause of action against a county, county employee or the state of Idaho based upon harm caused by information released from the records of the county.

SECTION 164. That Section 66-348, Idaho Code, be, and the same is hereby amended to read as follows:

66-348. DISCLOSURE OF INFORMATION. All certificates, applications, records, and reports made for the purpose of this act and directly or indirectly identifying a patient or former patient or an individual whose involuntary assessment, detention or commitment is being sought under this act shall be kept subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code; provided that such records may also be disclosed to any person:

(1) If the individual identified, his attorney in fact for mental health care, or his legal guardian, if any, shall consent; or

(2) If disclosure may be necessary to carry out any of the provisions of this act; or

(3) If a court directs upon its determination that disclosure is necessary and that failure to make disclosure would be contrary to the public interest.

SECTION 165. That Section 67-455A, Idaho Code, be, and the same is hereby amended to read as follows:

67-455A. COMMITTEE MAY ACQUIRE AND DISPOSE OF PROPERTY. (1) The governor's housing committee may accept grants, gifts or donations of any kind from any private or public source related to the acquisition, construction, remodel, furnishing, equipping or maintenance of a governor's residence.

(2) The governor's housing committee may acquire real property for purposes related to a governor's residence. Any real property acquired by the governor's housing committee shall be titled in the name of the state of Idaho for the benefit of the governor's housing committee and shall be administered by the department of administration on behalf of and for the benefit of the governor's housing committee. The governor's housing committee may sell such real property by public, private or negotiated sale, exchange, donation or by any other means and may rent a governor's residence and any furnishings and equipment related thereto, as the committee may deem appropriate and prudent. Any real property acquired hereunder shall not be subject to sections 58-331 through 58-335, Idaho Code, relating to surplus real property as the same may now exist or as the same may be amended from time to time. Any sale or disposal of such real property shall not require the reservation to the state of mineral or other rights in the real property.

(3) The governor's housing committee may acquire personal property for the purpose of remodeling, furnishing, equipping or maintaining a governor's residence. Any personal property acquired by the governor's housing committee shall be the property of the state of Idaho held for the benefit of the governor's housing committee and shall be administered on behalf of the governor's housing committee by the department of administration. The governor's housing committee may dispose of any personal property acquired

hereunder by any means as the committee may deem appropriate and prudent and such disposal shall not be subject to section 67-5732A, Idaho Code, relating to surplus personal property, as the same exists or may be amended from time to time.

(4) The governor's housing committee may acquire and contract for services related to the acquisition, construction, remodel, furnishing, equipping or maintenance of a governor's residence. Notwithstanding any other law to the contrary, the acquisition, construction, remodel, furnishing, equipping or maintenance of a governor's residence shall not be considered public works and shall not be subject to any laws related to public works of the state of Idaho. Notwithstanding any other law to the contrary, the governor's housing committee shall not be subject to the purchasing laws for state agencies provided in chapter 57, title 67, Idaho Code.

(5) Notwithstanding the provisions of sections 18-1359(1)(d), 18-2705, 58-112, ~~59-201~~ 74-501, ~~59-202~~ 74-503 and 67-5726, Idaho Code, or any other provision of law, an incumbent governor shall not be deemed prohibited from purchasing real or personal property acquired hereunder, and any such purchase shall be valid for all purposes. Insofar as the provisions of this section are inconsistent with the provisions of any other law, general, specific or local, the provisions of this section shall be controlling.

(6) This section shall apply to all real and personal property acquired pursuant to this section or section 67-455, Idaho Code, before or after the effective date of this section.

SECTION 166. That Section 67-461, Idaho Code, be, and the same is hereby amended to read as follows:

67-461. CONDUCT OF AND ISSUANCE OF PERFORMANCE EVALUATION REPORTS. (1) In conducting a performance evaluation, the director of legislative performance evaluations shall obtain an overview of the operations of the agency or program.

(a) The survey phase will develop background information, including roles and identities of key personnel, identify actual and potential financial, managerial and operational problem areas and determine whether and to what extent detailed audit tests may be required in each specific area.

(b) In consultation with the agency or program, the director of legislative performance evaluations will develop a performance evaluation work plan.

(2) Prior to the presentation of any performance evaluation to the committee, the evaluated agency and the governor shall have an opportunity to review the performance evaluation report and issue a response.

(a) The response of the agency and the governor to the performance evaluation report shall be included in the final report when it is presented to the committee.

(b) All documents, writings and information transmitted pursuant to this subsection shall be deemed confidential and shall not be released to the public prior to the time the committee issues its performance evaluation report pursuant to subsection (3) of this section.

(c) Any person violating the provisions of this subsection regarding confidentiality shall be guilty of a misdemeanor.

(3) The committee shall issue performance evaluation reports, favorable or unfavorable, of any state agency, and such reports shall be a public record except that:

(a) Prior to the release of a performance evaluation report or the point at which a performance evaluation is no longer being actively pursued, all papers, physical and electronic records and correspondence and other supporting materials comprising the work papers in the possession of the director of legislative performance evaluations or other entity

charged with the preparation of a performance evaluation report shall be confidential and exempt from disclosure pursuant to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

(b) All other records or materials in the possession of the director of legislative performance evaluations or other entity charged with the preparation of a performance evaluation report that would otherwise be confidential or exempt from disclosure shall be exempt from disclosure pursuant to the provisions of ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

(c) Nothing herein shall be construed to prohibit or prevent public access to state agency records in the possession of the director of legislative performance evaluations that would otherwise be subject to disclosure pursuant to the provisions of ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. The director of legislative performance evaluations shall refer requests for access to those records directly to the state agency that is the official custodian of the requested records, which shall be responsible for responding to the request for public records.

(4) If data supplied by an individual are needed to initiate, continue or complete a performance evaluation, the director of legislative performance evaluations may by written memorandum to the file provide that the individual's identity will remain confidential and exempt from disclosure under ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, and this written memorandum will protect the identity of the person from disclosure under ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, notwithstanding any other provision of law to the contrary.

(5) A final copy of the report, including recommendations, the evaluated agency's response, and the governor's response, shall be submitted to the governor and to the official, officer or person in charge of the state agency examined at least one (1) day prior to its release, and shall be made available to each member of the legislature no later than one (1) day following the report's receipt by the joint legislative oversight committee.

(6) The committee may meet in executive session to consider whether to direct the director of legislative performance evaluations to initiate or continue a performance evaluation or to receive or consider materials exempt from disclosure under subsection (2), (3) or (4) of this section.

SECTION 167. That Section 67-1903, Idaho Code, be, and the same is hereby amended to read as follows:

67-1903. STRATEGIC PLANNING. (1) Each state agency shall develop and submit to the division of financial management in an electronic format a comprehensive strategic plan for the major divisions and core functions of that agency. The plan shall be based upon the agency's statutory authority and, at a minimum, shall contain:

(a) A comprehensive outcome-based vision or mission statement covering major divisions and core functions of the agency;

(b) Goals for the major divisions and core functions of the agency;

(c) Objectives and/or tasks that indicate how the goals are to be achieved;

(d) Performance measures, developed in accordance with section 67-1904, Idaho Code, that assess the progress of the agency in meeting its goals in the strategic plan, along with an indication of how the performance measures are related to the goals in the strategic plan;

(e) Benchmarks or performance targets for each performance measure for, at a minimum, the next fiscal year, along with an explanation of the manner in which the benchmark or target level was established; and



(f) An identification of those key factors external to the agency and beyond its control that could significantly affect the achievement of the strategic plan goals and objectives.

(2) The strategic plan shall cover a period of not less than four (4) years forward including the fiscal year in which it is submitted, and shall be updated annually.

(3) The strategic plan shall serve as the foundation for developing the annual performance information required by section 67-1904, Idaho Code.

(4) When developing a strategic plan, an agency shall consult with the appropriate members of the legislature, and shall solicit and consider the views and suggestions of those persons and entities potentially affected by the plan. Consultation with legislators may occur when meeting the requirement of section 67-1904(7), Idaho Code.

(5) Strategic plans are public records and are available to the public as provided in section ~~9-338~~ 74-102, Idaho Code.

(6) Each agency, department and commission shall seek to minimize the number of printed copies of strategic plans and annual reports by using electronic versions whenever possible, and by printing only a limited number sufficient for internal needs or anticipated requests for copies for which electronic versions are otherwise inadequate.

SECTION 168. That Section 67-2726, Idaho Code, be, and the same is hereby amended to read as follows:

67-2726. BANKS TO WHICH OFFICIALS SECRETLY INDEBTED INELIGIBLE. No bank is eligible to become or remain a state depository, to which the state treasurer, state controller, or the chief deputy of either of them is directly indebted, unless the fact of such indebtedness is made known to the department of finance, but the amount and character of such indebtedness shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, and said department of finance shall treat such information in strict confidence. Any member of the department violating this provision shall be guilty of a misdemeanor, and punished therefor as provided by law.

In case of a violation by a state depository of this provision, the department of finance shall immediately cause all funds therein to be withdrawn and such bank shall be ineligible again to become a state depository during the incumbency of the official so indebted to said bank.

SECTION 169. That Section 67-2743E, Idaho Code, be, and the same is hereby amended to read as follows:

67-2743E. DISCLOSURE OR USE OF INFORMATION RELATING TO DEPOSITORIES -- PENALTY. Information regarding the solvency of the bank obtained by the board, the department of finance, or office of state treasurer, shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, except that such disclosure is subject to the privilege set out in subsection (3) of section 26-1111, Idaho Code, and provided further, that the board, the department of finance and the office of state treasurer may disclose such information to federal or state bank examiners having a lawful right to examine said bank or to proper officials legally empowered to investigate criminal charges relating to said bank or to any of its directors or employees, provided that the provisions of this section shall not apply to information included as part of the daily, monthly, biennial or other official reports of the state treasurer's office. Any public official who violates any provision of this section shall forfeit his office or employment and shall also be guilty of a felony. Any person who is not lawfully entitled to such information and who attempts to obtain such information illegally

or who misuses such information as he may have obtained shall be guilty of a felony.

SECTION 170. That Section 67-2915, Idaho Code, be, and the same is hereby amended to read as follows:

67-2915. STATISTICAL REPORT OF MALICIOUS HARASSMENT CRIMES. The director of the Idaho state police shall annually submit to the governor and the chairman of the judiciary and rules committee in the senate and the chairman of the judiciary, rules and administration committee in the house of representatives a report on malicious harassment crimes, as that crime is defined in section 18-7902, Idaho Code. Report content shall be limited to statistical data and shall be presented in conformance with the provisions of section 9-335 74-124, Idaho Code.

All city, county and state law enforcement units shall be required to report to the director all incidences of, complaints on, and arrests for malicious harassment crimes within their respective jurisdictions. The director shall develop a standard procedure and shall prescribe and provide a standard form for complete and uniform reporting.

SECTION 171. That Section 67-3008, Idaho Code, be, and the same is hereby amended to read as follows:

67-3008. RELEASE OF CRIMINAL HISTORY RECORD INFORMATION. (1) All units of state, city and local governments, as well as any agency of the state created by the legislature which require by statute, rule, or local or county ordinance, fingerprinting of applicants or licensees, are authorized to submit fingerprints to the bureau for examination and further submission, if necessary, to the federal bureau of investigation. The bureau shall be the state's sole source of fingerprint submissions for criminal justice and applicant or licensing purposes to the federal bureau of investigation.

(2) The department shall provide copies of or communicate information from criminal history records to the following:

(a) Criminal justice agencies and the court;

(b) A person or public or private agency, upon written application on a form approved by the director and provided by the department, subject to the following restrictions:

(i) A request for criminal history records must be submitted in writing or as provided by rule. However, the department shall accept a request presented in person by the subject of the record; and

(ii) The request must identify a specific person by name and date of birth. Fingerprints of the person named may be required to establish positive identification; and

(iii) Responding to the request does not interfere with the secure and orderly conduct of the department and would not substantially prejudice or prevent the carrying out of the functions of the department; and

(iv) A record of an arrest that does not contain a disposition after twelve (12) months from the date of arrest may only be disseminated by the department to criminal justice agencies, to the subject of the record, or to a person requesting the criminal history information with a signed release from the subject of the record; and

(v) Any release of criminal history data by the department shall prominently display the statement: "AN ARREST WITHOUT DISPOSITION IS NOT AN INDICATION OF GUILT."

(3) Judicial review of the department's denial of a request for records shall be in accordance with the provisions of section ~~9-343~~ 74-115, Idaho Code.

(4) A request for a criminal history record by a criminal justice agency or a court shall take precedence over all other requests. The department shall adopt rules to set forth the manner by which criminal justice agencies and courts without direct access to the public safety and security information system established by section 19-5202, Idaho Code, may request Idaho criminal history record information.

(5) Unless otherwise provided by law, access authorized under this section to criminal history records does not create a duty upon a person, employer, private agency, or public agency to examine the criminal history record of an applicant, employee or volunteer.

(6) A person or private agency, or public agency, other than the department, shall not disseminate criminal history record information obtained from the department to a person or agency that is not a criminal justice agency or a court without a signed release of the subject of record or unless otherwise provided by law.

(7) Direct access to criminal history record information is regulated by chapter 52, title 19, Idaho Code, and the rules adopted pursuant to that chapter.

SECTION 172. That Section 67-4126, Idaho Code, be, and the same is hereby amended to read as follows:

67-4126. POWERS AND DUTIES OF BOARD. The board of trustees of the society shall have powers and duties as follows:

1. To appoint a director of the society as provided herein and advise him in the performance of his duties and formulate general policies affecting the society.

2. To encourage and promote interest in the history of Idaho and encourage membership in the society.

3. To collect for preservation and display artifacts and information illustrative of Idaho history, culture and society.

4. To print such publications and reports as may be deemed necessary.

5. To encourage creation of county historical societies and museums in the counties of Idaho.

6. To facilitate the use of Idaho records for official reference and historical research.

7. To be responsible for records management services for state government. Records management services include the management, storage and retrieval of all state created records under retention. State created records shall mean any document, book, paper photograph, sound recording or other material, regardless of physical form or characteristic, made or received pursuant to law or in connection with the transaction of official state business. The board may charge reasonable amounts for records management services. The records managed pursuant to this subsection will not be subject to the exemption in public records law provided in section ~~9-337~~ 74-101(15), Idaho Code.

8. To accept from any state, county, or city, or any public official, any official books, records, documents, original papers, newspaper files, printed books, or portraits, not in current use. When such documents are so accepted, copies therefrom shall be made and certified under the seal of the society upon application of any person, which person shall pay for such copies reasonable fees established by the society.

9. To require that any state, county, or city, or any public official, deposit official books, records, documents, or original papers, not in current use, which are of definite historical importance, in the society for

preservation and to provide methods whereby such materials, which have no significance, may be destroyed.

10. To establish such rules as may be necessary to discharge the duties of the society.

11. To employ such personnel as may be necessary for the administration of its duties in accordance with the rules of the administrator of the division of human resources promulgated pursuant to chapter 52, title 67, Idaho Code.

12. To have and use an official seal.

13. To delegate and provide subdelegation of any such authority.

14. To identify historic, architectural, archaeological, and cultural sites, buildings, or districts, and to coordinate activities of local historic preservation commissions.

15. To serve as the geographic names board of the state of Idaho.

SECTION 173. That Section 67-4708, Idaho Code, be, and the same is hereby amended to read as follows:

67-4708. BUSINESS RECORDS. Business records and information submitted to the department by business clients shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. These records and information shall include financial statements, employment/employee records, loan agreements, the method of financing, the source and terms of financing, business and individual tax returns, insurance policies, bank statements, financial institution letters and documents, sales records, inventory lists, collateral agreements, and other documents or information the business declares to be, and marked "confidential -- proprietary information."

The exemption from disclosure as provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, shall also be extended to and be consistent with the requirements for confidentiality for business information included in any application for the various federal grant, loan or loan guarantee programs, various federal procurement contracting programs, and other similar federal business assistance programs in which the department is a participant.

This exemption from disclosure shall also apply to business information and records associated with industrial revenue bonds, department efforts to assist businesses with international marketing, industrial relocation projects, and other business development projects in which the department extends assistance.

SECTION 174. That Section 67-5009, Idaho Code, be, and the same is hereby amended to read as follows:

67-5009. OFFICE OF OMBUDSMAN FOR THE ELDERLY. The office of ombudsman for the elderly is hereby created within the commission. The ombudsman shall be responsible for receiving, investigating and resolving or closing complaints made by or on behalf of residents of long-term care facilities or persons aged sixty (60) years or older living in the community. No representative of the office shall be liable for the good faith performance of official duties, and willful interference with representatives of the office is unlawful. Long-term care facilities are prohibited from reprisals or retaliation against a resident or employee filing a complaint with, or furnishing information to, the office.

For the purposes of implementing the provisions of this section, the commission is hereby authorized as follows:

The administrator shall hire the state ombudsman for the elderly who shall be a person with the necessary educational background commensurate with the duties and responsibilities of the office of ombudsman and shall

be a classified employee subject to the provisions of chapter 53, title 67, Idaho Code.

The ombudsman may delegate to designated local ombudsmen any duties deemed necessary to carry out the purposes of the provisions of this section.

The ombudsman shall establish procedures for receiving and processing complaints, conducting investigations and reporting his findings. He shall have jurisdiction to investigate administrative acts or omissions of long-term care facilities or state or county departments or agencies providing services to older people. An administrative act of a long-term care facility or state or county department or agency may become an appropriate subject for the ombudsman to investigate under certain circumstances. For example, the ombudsman may investigate such an act if it might be contrary to law, unreasonable, unfair, oppressive, capricious or discriminatory. The ombudsman may make a finding for an appropriate resolution to the subject matter of the investigation.

The ombudsman shall investigate any complaint which he determines to be an appropriate subject for investigation under this section.

When the ombudsman investigates a complaint, he shall notify the complainant, if any, of the investigation and shall also notify the long-term care facility or the state or county department or agency affected by the investigation of his intent to investigate. However, if no investigation takes place, he shall inform the complainant of the reasons therefor. Records obtained by the ombudsman shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

In an investigation of any complaint or administrative act of any long-term care facility or state or county department or agency providing services to older people, the ombudsman may undertake, but not be limited to, any of the following actions:

(a) Make the necessary inquiries and obtain such information he deems necessary.

(b) Hold private hearings.

(c) Enter during regular business hours, a long-term care facility or state or county department or agency's premises.

Following the investigation and upon his determination that particular subject matter should be further considered by the long-term care facility or state or county department or agency, an administrative act should be modified or canceled, a statute or regulation on which an administrative act is based should be altered, reasons should be given for an administrative act, or some other action should be taken by a long-term care facility or state or county department or agency, he shall report his opinions and recommendations to the respective parties. The ombudsman may request the parties affected by such opinions or recommendations to notify him within the specified time of any action taken by such parties on his recommendation. Following an investigation, the ombudsman shall consult with the particular parties before issuing any opinion or recommendation that is critical to such parties.

The ombudsman shall notify the complainant in writing within a reasonable time from the date the investigation is terminated of any actions taken by him and the long-term care facility, or state or county department or agency to resolve any issues raised by the complaint.

The ombudsman, on December 1 of each year, shall submit to the governor, the speaker of the house, president of the senate, the department of health and welfare bureau of licensing and certification, the president of the Idaho hospital association and the president of the Idaho health care association a report of the activities of the ombudsman for the elderly during the prior fiscal year. This report shall include, but not be limited to, the number and general patterns of complaints received by the ombudsman, the action taken on such complaints, the results of such action, and any opin-

ions or recommendations which further the state's capability in providing for statutory resolution of complaints.

Nothing in this section shall be construed to be a limitation of the powers and responsibilities assigned by law to other state or county departments or agencies.

Records obtained by the ombudsman shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 175. That Section 67-5220, Idaho Code, be, and the same is hereby amended to read as follows:

67-5220. NOTICE OF INTENT TO PROMULGATE RULES -- NEGOTIATED RULEMAKING. (1) Prior to the adoption, amendment or repeal of a rule, an agency shall determine whether negotiated rulemaking is feasible. The agency's determination of whether negotiated rulemaking is feasible is not subject to judicial review. If the agency determines that negotiated rulemaking is feasible, it shall publish in the bulletin a notice of intent to promulgate a rule. The notice shall contain a brief, nontechnical statement of the subject matter to be addressed in the proposed rulemaking, and shall include the purpose of the rule, the statutory authority for the rulemaking, citation to a specific federal statute or regulation if that is the basis of authority or requirement for the rulemaking, and the principal issues involved. The notice shall also state that interested persons have the opportunity to participate with the agency in negotiated rulemaking as provided in this section and shall identify an individual to whom comments on the proposal may be sent. If the agency determines that negotiated rulemaking is not feasible, it shall explain why negotiated rulemaking is not feasible in a notice of proposed rulemaking published pursuant to section 67-5221, Idaho Code, and shall proceed with rulemaking as provided pursuant to this chapter. Each agency that has a website shall cause the notice of intent to promulgate rules to be placed onto or accessible from the home page of the agency's website.

(2) The notice of intent to promulgate a rule is intended to facilitate negotiated rulemaking, a process in which all interested persons and the agency seek consensus on the content of a rule. Agencies shall proceed through such informal rulemaking whenever it is feasible to do so in order to improve the substance of proposed rules by drawing upon shared information, knowledge, expertise and technical abilities possessed by interested persons and to expedite formal rulemaking.

(3) To facilitate the achievement of the purposes of this section, agencies shall, at a minimum:

(a) Provide a reasonable period of time for interested persons to respond to the notice of intent to promulgate rules;

(b) Provide notice of meetings to interested persons who responded to the notice of intent to promulgate rules;

(c) Upon request, make available to persons attending the meetings all information that is considered by the agency in connection with the formulation of the proposed rule and that is not exempt from disclosure pursuant to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code;

(d) Consider the recommendations of interested persons concerning the subject of the proposed rule;

(e) Establish, maintain and timely update the negotiated rulemaking schedule and a list of written comments and other documents and information pertinent to the proposed rule and make that information available to persons attending the negotiated rulemaking meeting;

(f) Prepare a written summary of unresolved issues, key information considered and conclusions reached during and as a result of the negotiated rulemaking and make that summary available to persons who attended the negotiated rulemaking meetings.

SECTION 176. That Section 67-5241, Idaho Code, be, and the same is hereby amended to read as follows:

67-5241. INFORMAL DISPOSITION. (1) Unless prohibited by other provisions of law:

(a) an agency or a presiding officer may decline to initiate a contested case;

(b) any part of the evidence in a contested case may be received in written form if doing so will expedite the case without substantially prejudicing the interests of any party;

(c) informal disposition may be made of any contested case by negotiation, stipulation, agreed settlement, or consent order. Informal settlement of matters is to be encouraged;

(d) the parties may stipulate as to the facts, reserving the right to appeal to a court of competent jurisdiction on issues of law.

(2) An agency or a presiding officer may request such additional information as required to decide whether to initiate or to decide a contested case as provided in subsection (1) of this section.

(3) If an agency or a presiding officer declines to initiate or decide a contested case under the provisions of this section, the agency or the officer shall furnish a brief statement of the reasons for the decision to all persons involved. This subsection does not apply to investigations or inquiries directed to or performed by law enforcement agencies defined in section ~~9-337~~ 74-101(7), Idaho Code.

(4) The agency may not abdicate its responsibility for any informal disposition of a contested case. Disposition of a contested case as provided in this section is a final agency action.

SECTION 177. That Section 67-5252, Idaho Code, be, and the same is hereby amended to read as follows:

67-5252. PRESIDING OFFICER -- DISQUALIFICATION. (1) Except as provided in subsection (4) of this section, any party shall have the right to one (1) disqualification without cause of any person serving or designated to serve as presiding officer, and any party shall have a right to move to disqualify for bias, prejudice, interest, substantial prior involvement in the matter other than as a presiding officer, status as an employee of the agency hearing the contested case, lack of professional knowledge in the subject matter of the contested case, or any other cause provided in this chapter or any cause for which a judge is or may be disqualified.

(2) Any party may petition for the disqualification of a person serving or designated to serve as presiding officer:

(a) within fourteen (14) days after receipt of notice indicating that the person will preside at the contested case; or

(b) promptly upon discovering facts establishing grounds for disqualification, whichever is later.

Any party may assert a blanket disqualification for cause of all employees of the agency hearing the contested case, other than the agency head, without awaiting designation of a presiding officer.

(3) A person whose disqualification for cause is requested shall determine in writing whether to grant the petition, stating facts and reasons for the determination.

(4) Where disqualification of the agency head or a member of the agency head would result in an inability to decide a contested case, the actions of the agency head shall be treated as a conflict of interest under the provisions of section ~~59-704~~ 74-404, Idaho Code.

(5) Where a decision is required to be rendered within fourteen (14) weeks of the date of a request for a hearing by state or federal statutes or

rules and regulations, no party shall have the right to a disqualification without cause.

SECTION 178. That Section 67-5711C, Idaho Code, be, and the same is hereby amended to read as follows:

67-5711C. CONSTRUCTION OF PUBLIC PROJECTS -- COMPETITIVE SEALED BIDDING. (1) All construction contracts for public works shall be awarded to the lowest responsible and responsive bidder after receipt of competitive sealed bidding except as otherwise provided in sections 67-5711B, 67-5711D and 67-5713, Idaho Code.

(2) An invitation for bids shall be issued and shall include a project description and all contractual terms and conditions applicable to the public works.

(3) Adequate public notice of the invitation for bids shall be given at least fourteen (14) days prior to the date set forth therein for the opening of bids. Such notice shall include publication at least fourteen (14) days prior to bid opening in a newspaper of general circulation in the area where the work is located.

(4) When prequalification is deemed by the department and by the respective state agency to be in the best interest of the state, competitive bidding procedures shall be open only to licensed public works contractors that meet preliminary supplemental qualifications. The solicitation for bids in a prequalified bidder public works project shall consist of two (2) stages, an initial stage for identifying prequalified contractors, either prime or specialty contractors, followed by a stage during which bid prices will be accepted only from prequalified contractors. Notice of the prequalification stage shall be given in the same manner that notice of open competitive bidding is provided. Prequalification standards must be premised upon demonstrated technical competence, experience constructing similar facilities, prior experience with the state, past performance (related to quality, workmanship and timeliness), reliability, safety record, available nonfinancial resources, equipment and personnel as they relate to the subject project, and overall performance history based upon a contractor's entire body of work. Any request for qualifications must include the standards for evaluating the qualifications of prospective bidders. Licensed contractors desiring to be prequalified to bid on a project must submit a written response to a request for qualifications. After a review of qualification submittals, licensed contractors that meet the prequalification standards shall be so notified and licensed contractors that do not meet the prequalification standards shall also be so notified. Thereafter, bids may be solicited from contractors that meet the prequalification standards. The department may promulgate rules or develop procedures to implement the prequalification process.

(5) Bids shall be opened publicly at the time and place designated in the invitation for bids. The amount of each bid and such other relevant information as may be specified by rules, together with the name of each bidder, shall be entered on a record and the record shall be open to public inspection. After the time of the award all bids and bid documents shall be open to public inspection in accordance with the provisions of sections 9-337 through 9-347 chapter 1, title 74, and section 67-5725, Idaho Code.

(6) With respect to a project having a written cost estimate of greater than twenty-five thousand dollars (\$25,000) but less than the public works limit established in section 67-5711, Idaho Code, the agency, if it does not perform the work with existing physical plant staff, must award a written contract to the lowest responsible and responsive bidder after soliciting at least three (3) documented informal bids from contractors licensed in Idaho to perform public works contracts, if reasonably available. Adequate public notice of the invitation for informal bids shall be given at least seven



(7) days prior to the date set forth therein for the receipt of the informal bids. Such notice may include publication at least seven (7) days prior to bid opening in a newspaper of general circulation in the area where the work is located; or the agency may advertise the invitation for bids in appropriate trade journals, and otherwise notify persons believed to be interested in the award of a contract. Informal bids must be submitted by the contractor in writing in response to a prepared written document describing the project's scope of work in sufficient detail so as to enable a contractor familiar with such work to prepare a responsible bid. Nothing herein exempts an agency from the responsibility of utilizing formal plans and specifications if the work involves the public health or safety as described in chapters 3 and 12, title 54, Idaho Code. The agency must document receipt of the informal bids in the project file.

(7) Any personal property including goods, parts, supplies and equipment which is to be supplied or provided by a state agency for use in any public work, project, or preventive maintenance programs, whether the public work, project, or preventive maintenance program is constructed, undertaken or performed by agency in-house personnel, or by delegation pursuant to section 67-5710A, Idaho Code, or otherwise provided or supplied by the agency to a contractor, the personal property, goods, parts, supplies or equipment supplied or provided by the agency must be purchased or procured by the agency through the division of purchasing in accordance with the Idaho Code.

SECTION 179. That Section 67-5711D, Idaho Code, be, and the same is hereby amended to read as follows:

67-5711D. ENERGY SAVINGS PERFORMANCE CONTRACTS. (1) Definitions. As used in this section:

(a) "Cost-savings measure" means any facility improvement, repair or alteration to an existing facility, or any equipment, fixture or furnishing to be added or used in any existing facility that is designed to reduce energy consumption and energy operating costs or increase the energy efficiency of facilities for their appointed functions that are cost effective. "Cost-savings measure" includes, but is not limited to, one (1) or more of the following:

- (i) Procurement of low-cost energy supplies of all types, including electricity, natural gas and water;
- (ii) Insulating the building structure or systems in the building;
- (iii) Storm windows or doors, caulking or weather stripping, multiglazed windows or door systems, heat-absorbing or heat-reflective glazed and coated window and door systems, additional glazing, reductions in glass area or other window and door system modifications that reduce energy consumption;
- (iv) Automated or computerized energy control systems;
- (v) Heating, ventilation or air conditioning system modifications or replacements;
- (vi) Replacing or modifying lighting fixtures to increase the energy efficiency of the lighting system;
- (vii) Energy recovery systems;
- (viii) Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;
- (ix) Installing new or modifying existing day lighting systems;
- (x) Installing or modifying renewable energy and alternate energy technologies;

(xi) Building operation programs that reduce energy costs including, but not limited to, computerized programs, training and other similar activities;

(xii) Steam trap improvement programs that reduce energy costs;

(xiii) Devices that reduce water consumption; and

(xiv) Any additional building infrastructure improvements that produce energy cost savings, significantly reduce energy consumption or increase the energy efficiency of the facilities for their appointed functions and are in compliance with all applicable state building codes.

(b) "Director" means the director of the department of administration or the director's designee.

(c) "Energy cost savings" means any expenses that are eliminated or avoided on a long-term basis as a result of equipment installed or modified, or services performed by a qualified energy service company or a qualified provider, but does not include merely shifting personnel costs or similar short-term cost savings.

(d) "Financial grade energy audit" means a comprehensive building energy systems audit performed by a professional engineer licensed in the state of Idaho for the purpose of identifying and documenting feasible energy and resource conservation measures and cost-savings factors.

(e) "Performance contract" means a contract between the director or the public entity and a qualified provider or a qualified energy service company for evaluation, recommendation and implementation of one (1) or more cost-savings measures. A performance contract may be structured as either:

(i) A guaranteed energy savings performance contract, which shall include, at a minimum, the design and installation of equipment and, if applicable, operation and maintenance of any of the measures implemented. Guaranteed annual savings must meet or exceed the total annual contract payments made by the director or the user agency or the public entity for such contract, including financing charges to be incurred over the life of the contract; or

(ii) A shared savings contract, which shall include provisions mutually agreed upon by the director and the qualified provider or qualified energy service company as to the rate of payments based upon energy cost savings and a stipulated maximum energy consumption level over the life of the contract.

(f) "Person" means an individual, corporation, partnership, firm, association, limited liability company, limited liability partnership or other such entity as recognized by the state of Idaho.

(g) "Public entity" means the cities, counties and school districts or any political subdivision within the state of Idaho.

(h) "Qualified energy service company" means a person with a record of established projects or with demonstrated technical, operational, financial and managerial capabilities to implement performance contracts and who currently holds an Idaho public works contractor license appropriate for the work being performed.

(i) "Qualified provider" means a person who is experienced in the design, implementation and installation of energy efficiency and facility improvement measures, who has the ability to secure necessary financial measures to support energy savings guarantees and the technical capabilities to ensure such measures generate energy cost savings, and who currently holds an Idaho public works contractor license appropriate for the work being performed.

(2) Performance contracts. The director of the department of administration, subject to the approval of the permanent building fund advisory council, or any Idaho public entity may enter into a performance contract with a qualified provider or qualified energy service company to reduce en-

ergy consumption or energy operating costs. Cost-savings measures implemented under such contracts shall comply with all applicable state and local building codes.

(3) Requests for qualifications. The director of the department of administration or the public entity shall request qualifications from qualified providers and qualified energy service companies inviting them to submit information describing their capabilities in the areas of:

- (a) Design, engineering, installation, maintenance and repairs associated with performance contracts;
- (b) Experience in conversions to a different energy or fuel source, so long as it is associated with a comprehensive energy efficiency retrofit;
- (c) Postinstallation project monitoring, data collection and reporting of savings;
- (d) Overall project experience and qualifications;
- (e) Management capability;
- (f) Ability to assess the availability of long-term financing;
- (g) Experience with projects of similar size and scope; and
- (h) Other factors determined by the director or the public entity to be relevant and appropriate relating to the ability of the qualified provider or qualified energy service company to perform the project.

(4) Notice. Adequate public notice of the request for qualifications shall be given at least fourteen (14) days prior to the date set forth therein for the opening of the responses to the request for qualifications. Such notice may be provided electronically or by publication in a newspaper of general circulation in the area where the work is located.

(5) Public inspection. All records of the department or an agency or the public entity relating to the award of a performance contract shall be open to public inspection in accordance with the provisions of sections ~~9-337 through 9-347~~ chapter 1, title 74, and section 67-5725, Idaho Code.

(6) Award of performance contract.

(a) The director or public entity shall select up to three (3) qualified providers or qualified energy service companies who have responded to the request for qualifications. Factors to be considered in selecting the successful qualified provider or qualified energy service company shall include, but not be limited to:

- (i) Fee structure;
- (ii) Contract terms;
- (iii) Comprehensiveness of the proposal and cost-savings measures;
- (iv) Experience of the qualified provider or qualified energy service company;
- (v) Quality of the technical approach of the qualified provider or qualified energy service company; and
- (vi) Overall benefits to the state or the public entity.

(b) Notwithstanding the provisions of section 67-5711C, Idaho Code, the director or the public entity may, following the request for qualifications and the expiration of the specified notice period, award the performance contract to the qualified provider or qualified energy service company which best meets the needs of the project and whose proposal may or may not represent the lowest cost among the proposals submitted pursuant to this section.

(c) Upon award of the performance contract, the successful qualified provider or qualified energy service company shall prepare a financial grade energy audit which, upon acceptance by the director or the public entity, shall become a part of the final performance contract.

(7) Installment payment and lease-purchase agreements. Pursuant to this section, the director or the public entity may enter into a performance contract, payments for which shall be made by the user agency or public

entity. Such performance contracts may be financed as installment payment contracts or lease-purchase agreements for the purchase and installation of cost-savings measures. Financing implemented through another person other than the qualified provider or qualified energy service company is authorized.

(8) Terms of performance contract.

(a) Each performance contract shall provide that all payments between parties, except obligations upon termination of the contract before its expiration, shall be made over time and that the objective of such performance contract is the implementation of cost-savings measures and energy cost savings.

(b) A performance contract, and payments provided thereunder, may extend beyond the fiscal year in which the performance contract becomes effective, subject to appropriation by the legislature or by the public entity, for costs incurred in future fiscal years. The performance contract may extend for a term not to exceed twenty-five (25) years. The permissible length of the contract may also reflect the useful life of the cost-savings measures.

(c) Performance contracts may provide for payments over a period of time not to exceed deadlines specified in the performance contract from the date of the final installation of the cost-savings measures.

(d) Performance contracts entered pursuant to this section may be amended or modified, upon agreement by the director or the public entity and the qualified provider or qualified energy service company, on an annual basis.

(9) Monitoring and reports. During the term of each performance contract, the qualified provider or qualified energy service company shall monitor the reductions in energy consumption and cost savings attributable to the cost-savings measures installed pursuant to the performance contract and shall annually prepare and provide a report to the director or the public entity documenting the performance of the cost-savings measures.

SECTION 180. That Section 67-5725, Idaho Code, be, and the same is hereby amended to read as follows:

67-5725. PRESERVATION OF RECORDS -- WRITTEN CONTRACTS -- VOID CONTRACTS. The administrator shall preserve all records of bids and acquisitions in his office, and information with respect thereto, in such form as he shall prescribe for a period of three (3) years after the date of final action, or for a period of time as may be proscribed by the record retention guideline schedule approved by the director of the department of administration. The records shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. Notwithstanding the foregoing, when an invitation to bid or a request for proposals is canceled prior to award of a purchase order or contract, the administrator shall immediately return all bids or proposals to the submitting vendor and those bids or proposals shall not be subject to disclosure under ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

Every contract made by the administrator in behalf of the state shall be reduced to writing and signed by the contracting parties with their names at the end thereof and filed in the office of the administrator, together with all bids, specifications, and all other documents and records associated with the acquisition or intended acquisition.

All contracts or agreements made in violation of the provisions of this chapter shall be void and any sum of money advanced by the state of Idaho in consideration of any such contract or agreement shall be repaid forthwith. In the event of refusal or delay when repayment is demanded by the proper officer of the state of Idaho, under whose authority such contract or agreement shall have been made or entered into, every person so refusing or delaying,

together with his surety or sureties, shall be forthwith prosecuted at law for the recovery of such sum of money so advanced.

SECTION 181. That Section 67-5768, Idaho Code, be, and the same is hereby amended to read as follows:

67-5768. NOMINAL POLICYHOLDER -- NO OBLIGATION TO STATE. (1) In policies and contracts procured by the director of the department of administration under this act and covering personnel of any state office, department, division, board, commission, institution, agency and operation, the director of the department of administration shall be designated as the nominal policyholder or contract holder.

(2) No policy or contract shall create, or be deemed to constitute, any financial obligation on the part of the state of Idaho beyond the obligation, to contribute for or upon current premiums or prepayments thereof.

(3) Except as hereinafter provided, information obtained from any employee, dependent or retiree insured under this act shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code; provided however, that if the affected employee, dependent or retiree waives in writing the right to hold such information confidential, said information may be disclosed.

SECTION 182. That Section 67-5781, Idaho Code, be, and the same is hereby amended to read as follows:

67-5781. AGENCIES TO PROVIDE RECORDS AND DATA. (1) Every state agency shall, no later than January 15, 2009, provide records, in an electronic format acceptable to the department of administration, of all interests in any real property owned, used or granted by it including, without limitation, records of ownership, leases, encumbrances, easements, rights-of-way leases or any other interest in real property, and on a regular and continuous basis, update such records and provide any new records to the department of administration. Metadata will accompany all state agency records.

(2) For the purposes of this section, the Idaho transportation department shall provide highway right-of-way records from January 1, 2002, forward, augmented thereafter each time real property owned by the state of Idaho is affected as part of the Idaho transportation department's regular course of business.

(3) For purposes of this section, state agencies shall provide only records and geographic information that are subject to disclosure under ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, or that the agency has determined to disclose as a public record.

SECTION 183. That Section 67-7410, Idaho Code, be, and the same is hereby amended to read as follows:

67-7410. DIRECTOR OF LOTTERY SECURITY. The director shall hire a security director who shall manage the lottery's security division. The security division shall be responsible for the performance of background investigations of employees, lottery retailers, bingo and raffle operators, vendors and major procurement contractors and for the enforcement of the criminal provisions of this chapter. In addition, the security division shall develop a security plan to be implemented by the lottery. The lottery's security division is herein designated as an Idaho law enforcement agency. The director of security has the authority to:

(1) Issue administrative subpoenas during the conduct of investigations in accordance with commission rules and this chapter;

(2) Require fingerprint-based criminal history check of the Idaho central database and the federal bureau of investigation's criminal history

database on prospective employees, vendors, contractors, lottery retailers and bingo and raffle operators; and

(3) Access criminal offender record information from the Idaho state police for the purpose of background or other investigations performed in accordance with this chapter.

Such information obtained and kept by the security director shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. Nothing herein shall prohibit the lottery from disclosing information obtained by it to law enforcement agencies or other lottery organizations for security or enforcement purposes.

SECTION 184. That Section 67-7421, Idaho Code, be, and the same is hereby amended to read as follows:

67-7421. LOTTERY VENDOR DISCLOSURES FOR MAJOR PROCUREMENTS. This section is provided to allow the commission to evaluate the competence, integrity, background, character and the nature of the true ownership and control of lottery vendors. The commission may require any person, as a part of a major procurement, to disclose at the time of submitting such bid, proposal or offer to the commission the following information:

(1) If the vendor is a partnership or joint venture, the names and addresses of all of the general and limited partners or joint venturers; if such general and limited partners or joint venturers are themselves a partnership, joint venture, trust, association, corporation, subsidiary, or intermediary corporation, the same information required by this section shall be supplied for such entities also;

(2) If the vendor is a trust, the names and addresses of the trustee and all persons entitled to receive income or benefit of the trust;

(3) If the vendor is an association, the names and addresses of the members, officers and directors;

(4) If the vendor is a corporation, the names and addresses of the officers, directors and each owner or holder, directly or indirectly, of any equity security or other evidence of ownership of any interest in such corporation; except that, in the case of owners or holders of publicly held securities of an intermediary company, holding company, or parent company that is a publicly traded corporation, only the names and addresses of those owning or holding five percent (5%) or more of such publicly held securities need be disclosed;

(5) If the vendor intends to or does subcontract to another person or entity any integral or substantial portion of the work to be performed in supplying such materials, equipment or services, then the vendor shall supply the information required by subparagraphs in this section for all such persons or entities;

(6) If the vendor is a corporation, the names of all the states in which the vendor is incorporated to do business, and the nature of that business;

(7) The names of other jurisdictions in which the vendor has contracts to supply gaming materials, equipment or services and the types of gaming materials, equipment or services involved therewith;

(8) The details of any felony conviction of a criminal offense, state or federal, of the vendor or any person whose name and address are required by the disclosure requirements of this section;

(9) The details of any disciplinary action of a judicial nature taken by any state against the vendor or any person whose name and address are required by this section regarding any matter related to the selling, leasing, offering for sale or lease, buying, or servicing of gaming materials or equipment;

(10) Audited financial statements for the most recent five (5) years and a statement of the gross receipts realized in the preceding year from the sale, lease or distribution of gaming materials, equipment or services.

This information shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code;

(11) The name and address of any source of game materials, equipment or services for the vendor; and

(12) Such other information, accompanied by such documents, as the commission, by rule, regulation or contract procurement documents, may require as being necessary or appropriate in the public interest to accomplish the purposes of this section.

A major procurement contractor shall report immediately any changes in the information required in this section.

SECTION 185. That Section 67-7436, Idaho Code, be, and the same is hereby amended to read as follows:

67-7436. AUDITS. A certified public accounting firm appointed by the commission shall conduct audits of all accounts and transactions of the state lottery. The director and his agents conducting an audit under this chapter shall have access and authority to examine any and all lottery-related records of lottery vendors and retailers. Such records shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 186. That Section 67-7437, Idaho Code, be, and the same is hereby amended to read as follows:

67-7437. PRIZES. Except as otherwise provided in this section, any prize won under this chapter is not assignable. If the prize winner dies before the prize is paid, the prize shall be paid to the estate of the prize winner. A prize is subject to garnishment and recovery for unpaid taxes, child or spousal support or public assistance benefits paid and recoverable by the state or any county, or by a person pursuant to a judgment and execution under an order of the court. A prize shall also be subject to immediate withholding and set-off to collect any support delinquency or state taxes owed upon notification from the department of health and welfare pursuant to section 56-203E, Idaho Code, or the state tax commission pursuant to section 63-3060, Idaho Code. The state lottery shall not pay a prize claim until the lottery ticket or share has passed the validation tests established by the state lottery.

No prize shall be paid arising from claimed tickets or shares that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received or not recorded by the state lottery by applicable deadlines, lacking in captions that confirm and agree with the state lottery play symbols as appropriate to the game involved, or not in compliance with such additional specific rules and regulations and public or confidential validation and security tests of the state lottery appropriate to the particular lottery game involved. Confidential validation or security tests shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

No particular prize in any lottery game may be paid more than once, and in the event of a binding determination that more than one (1) claimant is entitled to a particular prize, the sole remedy of such claimants is the award to each of them an equal share in the prize.

SECTION 187. That Section 67-7441, Idaho Code, be, and the same is hereby amended to read as follows:

67-7441. RECORDS. All papers, records, correspondence, communications and proceedings of the Idaho state lottery and the commission shall be open to the public except as otherwise provided by statute; provided,

however, that business records and information provided to the state lottery pursuant to sections 67-7412(8) and (9) and 67-7420(8) and (9), Idaho Code, shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

No lottery employee shall divulge or make known to any person in any manner any information which is exempt from disclosure, whatsoever, obtained directly or indirectly by him in the discharge of his duties, or permit any copy thereof to be seen. Any employee violating provisions of this section shall be guilty of a misdemeanor.

SECTION 188. That Section 67-7445, Idaho Code, be, and the same is hereby amended to read as follows:

67-7445. CONDITIONS OF PURCHASE. By purchasing a ticket or share in a lottery game, a player agrees to abide by, and be bound by, the commission's rules and regulations and by lottery game rules developed by the commission to apply to any particular lottery game involved. In particular, and without limitation, the player acknowledges, that the determination of whether the player is a valid winner is subject to winner validation procedures and confidential validation and security tests established by the state lottery for the particular lottery game. Confidential validation and security tests shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 189. That Section 67-8906, Idaho Code, be, and the same is hereby amended to read as follows:

67-8906. QUORUM -- MODE OF ACTION -- COMPENSATION. (1) Four (4) directors of the authority shall constitute a quorum for the purpose of conducting business and exercising its powers.

(2) Action may be taken by the authority upon the affirmative vote of at least four (4) directors. No vacancy on the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority.

(3) Notice of meetings shall be given as provided in ~~sections 67-2341 through 67-2347~~ chapter 2, title 74, Idaho Code, and the bylaws of the authority.

(4) The board may hold any of its meetings by telephone, teleconference or other electronic means, as and to the extent provided in its bylaws.

(5) The board shall act by resolution or order which shall be recorded in its official minutes but need not be published or posted.

(6) Directors shall be compensated for services as provided by section 59-509(o), Idaho Code.

SECTION 190. That Section 69-250, Idaho Code, be, and the same is hereby amended to read as follows:

69-250. CONFIDENTIAL AND PROTECTED RECORDS. Records required by the department including, but not limited to, production summaries, receiving records, conditioning reports, records relating to the payment of agricultural commodities, commodity indemnity fund and seed indemnity fund reporting forms of a warehouseman, and financial records that are required pursuant to section 69-206(6), Idaho Code, shall be held confidential and will be protected as production records according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. These records shall not be subject to disclosure unless specifically authorized in writing by the licensee or as otherwise authorized pursuant to the provisions of ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.



SECTION 191. That Section 69-515, Idaho Code, be, and the same is hereby amended to read as follows:

69-515. CONFIDENTIAL AND PROTECTED RECORDS. Records required by the department including, but not limited to, production summaries, receiving records, conditioning reports, records relating to the payment of agricultural commodities, commodity indemnity fund and seed indemnity fund reporting forms of a commodity dealer, and financial records that are required pursuant to sections 69-503(6) and 69-521, Idaho Code, shall be held confidential and will be protected as production records according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. These records shall not be subject to disclosure unless specifically authorized in writing by the licensee or as otherwise authorized pursuant to the provisions of ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 192. That Section 72-603, Idaho Code, be, and the same is hereby amended to read as follows:

72-603. EMPLOYERS' REPORT OF EMPLOYEES. Requirement to keep records and to report. Subject to the provisions of this law, every employer shall keep an accurate record of the number and job classification of his employees and the wages paid, and upon demand of the commission shall furnish the commission a sworn statement of the same. Such records shall not be open to inspection except on request of the commission. The commission shall have the right, at any time and as often as it requires, to verify the number of employees and the amount of the payroll, and to inspect or cause to be inspected such records.

Information received from employers shall be subject to disclosure as provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

SECTION 193. That Section 72-926, Idaho Code, be, and the same is hereby amended to read as follows:

72-926. DISCLOSURES PROHIBITED. Information acquired by the manager from employers or employees pursuant to this chapter shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, and any officer or employee of the manager or of the state insurance fund who, without authority of the manager or pursuant to his rules, or as otherwise required by law, shall disclose the same, shall be guilty of a misdemeanor.

SECTION 194. That Section 72-1007, Idaho Code, be, and the same is hereby amended to read as follows:

72-1007. PUBLIC INSPECTION AND DISCLOSURE OF COMMISSION'S RECORDS. The information and records the commission maintains in its possession in the administration of this chapter shall be kept confidential and are exempt from public disclosure under ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, provided however:

(1) During the commission's regular office hours any claimant, or his attorney or authorized representative, may examine all files maintained by the commission in connection with his application for compensation;

(2) Upon an adequate showing to the court in a separate civil or criminal action that the specific information or records are not obtainable through diligent effort from any independent source, the court may inspect such records in camera to determine whether the public interest in disclosing the records outweighs the public or private interest in maintaining the confidentiality of such records;

(3) Information and records maintained by the commission may be disclosed to public employees and officials in the performance of their official duties; and

(4) Information and records maintained by the commission may be disclosed to health care providers who are:

- (a) Treating or examining victims claiming benefits under this chapter; or
- (b) Giving medical advice to the commission regarding any claim.

SECTION 195. That Section 72-1342, Idaho Code, be, and the same is hereby amended to read as follows:

72-1342. DISCLOSURE OF INFORMATION. Employment security information, as defined in section 9-340C 74-106(7), Idaho Code, shall be exempt from disclosure as provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, except that such information may be disclosed as is necessary for the proper administration of programs under this chapter or may be made available to public officials for use in the performance of official duties subject to such restrictions and fees as the director may by rule prescribe. The director may by rule prescribe the form of written, informed consent by a person that is adequate for disclosure of employment security information pertaining to that person to a third party, as provided in section 9-340C 74-106(7), Idaho Code, and the security requirements and cost provisions that apply to such disclosures.

SECTION 196. That Section 72-1372, Idaho Code, be, and the same is hereby amended to read as follows:

72-1372. CIVIL PENALTIES. (1) The following civil penalties shall be assessed by the director:

(a) If a determination is made finding that an employer willfully filed a false report, a monetary penalty equal to one hundred percent (100%) of the amount that would be due if the employer had filed a correct report or two hundred fifty dollars (\$250), whichever is greater, shall be added to the liability of the employer for each quarter for which the employer willfully filed a false report. For the purposes of this section, a false report includes, but is not limited to, a report for a period wherein an employer pays remuneration for personal services which meets the definition of "wages" under section 72-1328, Idaho Code, and the payment is concealed, hidden, or otherwise not reported to the department.

(b) If a determination is made finding that an employer willfully failed to file the employer's quarterly unemployment insurance tax report when due, the director shall assess a monetary penalty equal to:

(i) Seventy-five dollars (\$75.00) or twenty-five percent (25%) of the amount that would be due if the employer had filed a timely quarterly report, whichever is greater, if the employer had not been found in any previous determination to have willfully failed to file a timely quarterly report for any of the sixteen (16) preceding consecutive calendar quarters; or

(ii) One hundred fifty dollars (\$150) or fifty percent (50%) of the amount that would be due if the employer had filed a timely quarterly report, whichever is greater, if the employer had been found in any previous determination to have willfully failed to file a timely quarterly report for no more than one (1) of the sixteen (16) preceding consecutive calendar quarters; or

(iii) Two hundred fifty dollars (\$250) or one hundred percent (100%) of the amount that would be due if the employer had filed a timely quarterly report, whichever is greater, if the employer had

been found in any previous determination or determinations to have willfully failed to file a timely quarterly report for two (2) or more of the sixteen (16) preceding consecutive calendar quarters.

(c) If a determination is made finding that an employer, or any officer or agent or employee of the employer with the employer's knowledge, willfully made a false statement or representation or willfully failed to report a material fact when submitting facts to the department concerning a claimant's separation from the employer, a penalty in an amount equal to ten (10) times the weekly benefit amount of such claimant shall be added to the liability of the employer.

(d) If a determination is made finding that an employer has induced, solicited, coerced or colluded with an employee or former employee to file a false or fraudulent claim for benefits under this chapter, a penalty in an amount equal to ten (10) times the weekly benefit amount of such employee or former employee shall be added to the liability of the employer.

(e) If a determination is made finding that an employer failed to complete and submit an Idaho business registration form when due, as required by section 72-1337(1), Idaho Code, a penalty of five hundred dollars (\$500) shall be assessed against the employer.

(f) For purposes of paragraphs (c) and (d) of this subsection (1), the term "weekly benefit amount" means the amount calculated pursuant to section 72-1367(2), Idaho Code.

(g) If a determination is made finding that a person has made any unauthorized disclosure of employment security information in violation of the provisions of ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, or section 72-1342, Idaho Code, or rules promulgated thereunder, a penalty of five hundred dollars (\$500) for each act of unauthorized disclosure shall be assessed against the person.

(h) If a determination is made finding that a professional employer failed to submit a separate quarterly wage report for each client as required in section 72-1349B(4), Idaho Code, the director shall assess a monetary penalty equal to one hundred dollars (\$100) for each client not separately reported by the professional employer; provided that the maximum penalty for any quarter shall not exceed five thousand dollars (\$5,000).

(2) At the discretion of the director, the department may waive all or any part of the penalties imposed pursuant to subsection (1) of this section if the employer shows to the satisfaction of the director that it had good cause for failing to comply with the requirements of this chapter and rules promulgated thereunder.

(3) Determinations imposing civil penalties pursuant to this section shall be served in accordance with section 72-1368(5), Idaho Code. Penalties imposed pursuant to this section shall be due and payable twenty (20) days after the date the determination was served unless an appeal is filed in accordance with section 72-1368, Idaho Code, and rules promulgated thereunder. Such appeals shall be conducted in accordance with section 72-1368, Idaho Code, and rules promulgated thereunder.

(4) Civil penalties imposed by this section shall be in addition to any other penalties authorized by this chapter. The provisions of this chapter that apply to the collection of contributions, and the rules promulgated thereunder, shall also apply to the collection of penalties imposed pursuant to this section. Amounts collected pursuant to this section shall be paid into the state employment security administrative and reimbursement fund as established by section 72-1348, Idaho Code.

SECTION 197. That Section 72-1374, Idaho Code, be, and the same is hereby amended to read as follows:

72-1374. UNAUTHORIZED DISCLOSURE OF INFORMATION. If any of the following persons, in violation of the provisions of ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, or section 72-1342, Idaho Code, or rules promulgated thereunder, makes any unauthorized disclosure of employment security information, each act of unauthorized disclosure shall constitute a separate misdemeanor:

- (1) Any employee of the department;
- (2) Any employee or member of the commission;
- (3) Any third party or employee thereof who has obtained employment security information pertaining to a person with the written, informed consent of that person;
- (4) Any public official who has obtained employment security information for use in the performance of official duties; or
- (5) Any person who has obtained employment security information through means that violate the provisions of ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, or this chapter, or rules promulgated thereunder.

SECTION 198. The provisions of Section 71 of this act shall be in full force and effect on and after July 1, 2018.

Approved March 26, 2015

CHAPTER 142  
(H.B. No. 101)

AN ACT  
RELATING TO CRIMINAL PROCEDURE; REPEALING SECTION 18-707, IDAHO CODE, RELATING TO REFUSING ASSISTANCE TO OFFICERS; AND REPEALING SECTION 49-230, IDAHO CODE, RELATING TO TAMPERING WITH VEHICLE.

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

SECTION 1. That Section 18-707, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 49-230, Idaho Code, be, and the same is hereby repealed.

Approved March 26, 2015

CHAPTER 143  
(H.B. No. 139)

AN ACT  
RELATING TO CRIMINAL PROCEDURE; REPEALING SECTION 19-303, IDAHO CODE, RELATING TO FIGHTING DUELS OUT OF THE STATE.

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

SECTION 1. That Section 19-303, Idaho Code, be, and the same is hereby repealed.

Approved March 26, 2015

CHAPTER 144  
(H.B. No. 205)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISION OF MEDICAID FOR FISCAL YEAR 2015; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISION OF MEDICAID FOR FISCAL YEAR 2015; 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 312, Laws of 2014, and any other appropriation provided for by law, there is hereby appropriated to the Department of Health and Welfare, for the Division of Medicaid, the following amounts to be expended for trustee and benefit payments for the designated programs, from the Cooperative Welfare (Dedicated) Fund for the period July 1, 2014, through June 30, 2015:

FOR:

Coordinated Medicaid Plan	\$875,000
Enhanced Medicaid Plan	61,865,000
Basic Medicaid Plan	<u>21,000</u>
TOTAL	\$62,761,000

SECTION 2. Notwithstanding any other provision of law to the contrary, the appropriation made to the Department of Health and Welfare for the Division of Medicaid, in Section 1, Chapter 312, Laws of 2014, is hereby reduced by the following amounts, for trustee and benefit payments according to the designated programs, from the listed funds for the period July 1, 2014, through June 30, 2015:

FOR:

I. COORDINATED MEDICAID PLAN:

FROM:

Cooperative Welfare (General) Fund	\$253,700
Cooperative Welfare (Federal) Fund	<u>621,300</u>
TOTAL	\$875,000

II. ENHANCED MEDICAID PLAN:

FROM:

Cooperative Welfare (General) Fund	\$16,850,200
Cooperative Welfare (Federal) Fund	<u>41,253,800</u>
TOTAL	\$58,104,000

III. BASIC MEDICAID PLAN:

FROM:

Cooperative Welfare (General) Fund	\$6,100
Cooperative Welfare (Federal) Fund	<u>14,900</u>
TOTAL	\$21,000

GRAND TOTAL	\$59,000,000
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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 26, 2015

CHAPTER 145  
(H.B. No. 210)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE INDIRECT SUPPORT SERVICES PROGRAM FOR FISCAL YEAR 2015; REDUCING THE APPROPRIATION TO DEPARTMENT OF HEALTH AND WELFARE FOR THE INDIRECT SUPPORT SERVICES PROGRAM FOR FISCAL YEAR 2015; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE SELF-RELIANCE OPERATIONS PROGRAM FOR FISCAL YEAR 2015; AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT POSITIONS FOR THE WELFARE PROGRAM FOR FISCAL YEAR 2015; REDUCING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS FOR THE SOUTHWEST IDAHO TREATMENT CENTER PROGRAM FOR FISCAL YEAR 2015; 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 289, Laws of 2014, and any other appropriation provided for by law, there is hereby appropriated from the Cooperative Welfare (Dedicated) Fund to the Department of Health and Welfare for the Indirect Support Services Program, the following amounts to be expended for the designated expense classes, for the period July 1, 2014, through June 30, 2015:

FOR:	
Personnel Costs	\$2,933,800
Operating Expenditures	<u>671,900</u>
TOTAL	\$3,605,700

SECTION 2. Notwithstanding any other provision of law to the contrary, the appropriation made to the Department of Health and Welfare for the Indirect Support Services Program in Section 1, Chapter 289, Laws of 2014, from the Cooperative Welfare (Federal) Fund, is hereby reduced by the following amounts according to the designated expense classes for the period July 1, 2014, through June 30, 2015:

FOR:	
Personnel Costs	\$2,933,800
Operating Expenditures	<u>671,900</u>
TOTAL	\$3,605,700

SECTION 3. In addition to the appropriation made in Section 1, Chapter 328, Laws of 2014, and any other appropriation provided for by law, there is hereby appropriated from the Cooperative Welfare (Dedicated) Fund to the Department of Health and Welfare for the Self-Reliance Operations Program, the following amounts to be expended for the designated expense classes, for the period July 1, 2014, through June 30, 2015:

FOR:

Personnel Costs	\$1,185,000
Operating Expenditures	<u>6,939,500</u>
TOTAL	\$8,124,500

SECTION 4. FTP AUTHORIZATION. The full-time equivalent position authorization provided to the Department of Health and Welfare for the Welfare Program in Section 2, Chapter 328, Laws of 2014, is increased by fifteen (15) for the period July 1, 2014, through June 30, 2015.

SECTION 5. FTP AUTHORIZATION. The full-time equivalent position authorization provided to the Department of Health and Welfare for the Southwest Idaho Treatment Center in Section 2, Chapter 295, Laws of 2014, is reduced by fifteen (15) for the period July 1, 2014, through June 30, 2015.

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 26, 2015

CHAPTER 146  
(H.B. No. 211)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE BENEFIT PAYMENTS PROGRAM FOR FISCAL YEAR 2015; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR INDIRECT SUPPORT SERVICES FOR FISCAL YEAR 2015; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR INDIRECT SUPPORT SERVICES FOR FISCAL YEAR 2015; 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 328, Laws of 2014, and any other appropriation provided for by law, there is hereby appropriated \$3,236,300 from the Cooperative Welfare (Federal) Fund to the Department of Health and Welfare for the Benefit Payments Program, to be expended for trustee and benefit payments, for the period July 1, 2014, through June 30, 2015.

SECTION 2. Notwithstanding any other provision of law to the contrary, the appropriation made to the Department of Health and Welfare for Indirect Support Services, in Section 1, Chapter 289, Laws of 2014, from the Cooperative Welfare (General) Fund, is hereby reduced by \$1,300,000 for personnel costs, for the period July 1, 2014, through June 30, 2015.

SECTION 3. In addition to the appropriation made in Section 1, Chapter 289, Laws of 2014, and any other appropriation provided for by law, there is hereby appropriated to the Department of Health and Welfare for Indirect Support Services, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2014, through June 30, 2015:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Cooperative Welfare (General)				
Fund		\$300,000	\$1,000,000	\$1,300,000
Cooperative Welfare (Federal)				
Fund	\$1,300,000	300,000	1,000,000	2,600,000
TOTAL	\$1,300,000	\$600,000	\$2,000,000	\$3,900,000

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 26, 2015

CHAPTER 147  
(H.B. No. 218)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE HEALTH-CARE POLICY INITIATIVES PROGRAM FOR FISCAL YEAR 2015; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE PHYSICAL HEALTH SERVICES PROGRAM FOR FISCAL YEAR 2015; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE MEDICALLY INDIGENT ADMINISTRATION PROGRAM FOR FISCAL YEAR 2015; AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT POSITIONS FOR THE PHYSICAL HEALTH SERVICES PROGRAM FOR FISCAL YEAR 2015; REDUCING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS FOR THE SOUTHWEST IDAHO TREATMENT CENTER FOR FISCAL YEAR 2015; REDUCING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS FOR THE MEDICALLY INDIGENT ADMINISTRATION PROGRAM FOR FISCAL YEAR 2015; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS FOR THE HEALTHCARE POLICY INITIATIVES PROGRAM FOR FISCAL YEAR 2015; REPORTING ON IMPLEMENTATION OF THE SHIP GRANT; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for the Healthcare Policy Initiatives Program, from the Cooperative Welfare (Federal) Fund, the following amounts to be expended for the designated expense classes, for the period July 1, 2014, through June 30, 2015:

FOR:	
Personnel Costs	\$250,000
Operating Expenditures	3,229,800
TOTAL	\$3,479,800

SECTION 2. In addition to the appropriation made in Section 1, Chapter 177, Laws of 2014, and any other appropriation provided for by law, there is hereby appropriated \$41,900 from the Cooperative Welfare (Federal) Fund to the Department of Health and Welfare for the Physical Health Services Program, to be expended for personnel costs, for the period July 1, 2014, through June 30, 2015.



SECTION 3. Notwithstanding any other provision of law to the contrary, the appropriation made to the Department of Health and Welfare for the Medically Indigent Administration Program, in Section 1, Chapter 328, Laws of 2014, from the Cooperative Welfare (General) Fund, is hereby reduced by the following amounts according to the designated expense classes for the period July 1, 2014, through June 30, 2015:

FOR:

Personnel Costs	\$51,500
Operating Expenditures	<u>6,300</u>
TOTAL	\$57,800

SECTION 4. FTP AUTHORIZATION. The full-time equivalent position authorization provided to the Department of Health and Welfare for the Physical Health Services Program, in Section 2, Chapter 177, Laws of 2014, is increased by one (1) for the period July 1, 2014, through June 30, 2015.

SECTION 5. FTP AUTHORIZATION. The full-time equivalent position authorization provided to the Department of Health and Welfare for the Southwest Idaho Treatment Center, in Section 2, Chapter 295, Laws of 2014, is reduced by eight (8) for the period July 1, 2014, through June 30, 2015.

SECTION 6. FTP AUTHORIZATION. The full-time equivalent position authorization provided to the Department of Health and Welfare for the Medically Indigent Administration Program, in Section 2, Chapter 328, Laws of 2014, is reduced by one (1) for the period July 1, 2014, through June 30, 2015.

SECTION 7. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare for the Healthcare Policy Initiatives Program, is authorized no more than seven (7) full-time equivalent positions at any point during the period July 1, 2014, through June 30, 2015, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 8. REPORTING ON IMPLEMENTATION OF THE SHIP GRANT. The Healthcare Policy Initiative Program shall report on an annual basis, the status of the State Healthcare Innovation Plan (SHIP) to the Legislative Services Office and the Division of Financial Management. The report shall include comments and suggestions from private insurers, private providers, and other active stakeholders on the process of moving from the current fee-for-service medical model to a capitated model of healthcare delivery. The report should also include results of any performance metrics required by the grant, in addition to updates on potential solutions for the State of Idaho. This report shall be submitted no later than December 31, 2015.

SECTION 9. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 26, 2015

CHAPTER 148  
(H.B. No. 224)

AN ACT

APPROPRIATING MONEYS TO THE MEDICAL BOARDS FOR FISCAL YEAR 2016; 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 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, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. BOARD OF DENTISTRY:				
FROM:				
State Regulatory				
Fund	\$278,400	\$267,300	\$1,000	\$546,700
II. BOARD OF MEDICINE:				
FROM:				
State Regulatory				
Fund	\$930,300	\$754,300	\$19,500	\$1,704,100
III. BOARD OF NURSING:				
FROM:				
State Regulatory				
Fund	\$757,900	\$615,000		\$1,372,900
IV. BOARD OF PHARMACY:				
FROM:				
State Regulatory				
Fund	\$994,500	\$558,700	\$61,800	\$1,615,000
V. BOARD OF VETERINARY MEDICINE:				
FROM:				
State Regulatory				
Fund	\$169,000	\$126,300		\$295,300
GRAND TOTAL	\$3,130,100	\$2,321,600	\$82,300	\$5,534,000

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, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Board of Dentistry .....	Three and six-tenths (3.6)
Board of Medicine .....	Fourteen (14)
Board of Nursing .....	Eleven (11)
Board of Pharmacy .....	Fourteen (14)
Board of Veterinary Medicine .....	Two and five-tenths (2.5)

Approved March 26, 2015

CHAPTER 149  
(H.B. No. 225)

AN ACT

APPROPRIATING MONEYS TO THE LAVA HOT SPRINGS FOUNDATION FOR FISCAL YEAR 2016; 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 Lava Hot Springs Foundation the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Lava Hot Springs Foundation				
Fund	\$1,117,100	\$718,600	\$108,000	\$1,943,700
Lava Hot Springs Capital Improvement				
Fund	<u>0</u>	<u>25,000</u>	<u>0</u>	<u>25,000</u>
TOTAL	\$1,117,100	\$743,600	\$108,000	\$1,968,700

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Lava Hot Springs Foundation is authorized no more than thirteen and eight-tenths (13.8) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 26, 2015

CHAPTER 150  
(S.B. No. 1086)

AN ACT

RELATING TO PROFESSIONAL-TECHNICAL EDUCATION; AMENDING SECTION 33-2205, IDAHO CODE, TO CLARIFY PROVISIONS RELATING TO THE DIVISION OF PROFESSIONAL-TECHNICAL EDUCATION, TO PROVIDE DUTIES AND POWERS OF THE DIVISION OF PROFESSIONAL-TECHNICAL EDUCATION AND TO GRANT CERTAIN RULEMAKING AUTHORITY TO THE STATE BOARD OF EDUCATION.

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

SECTION 1. That Section 33-2205, Idaho Code, be, and the same is hereby amended to read as follows:

33-2205. STATE BOARD TO APPOINT ADMINISTRATOR -- DESIGNATION OF ASSISTANTS -- DIVISION OF PROFESSIONAL-TECHNICAL EDUCATION -- DUTIES AND POWERS. (1) The state board of education shall appoint a person to serve as an administrator to the state board for professional-technical education, who shall be known as the administrator of professional-technical education. He The administrator shall designate, by and with the advice and consent of the state board for professional-technical education, such assistants as may be necessary to properly carry out the provisions of the federal acts and this chapter for the state of Idaho. The administrator and such assistants shall together be known as the division of professional-technical education.

(2) The administrator of professional-technical education shall also carry into effect such rules as the state board for professional-technical education may adopt, and shall coordinate all efforts in professional-technical education approved by the board with the executive secretary, and shall prepare such reports concerning the condition of professional-technical education in the state as the state board for professional-technical education may require.

(3) The division of professional-technical education shall coordinate with the Idaho digital learning academy to provide approved online professional-technical education courses to any Idaho school district.

(4) The division of professional-technical education may provide incentives to Idaho public colleges and universities offering professional-technical programs that, in coordination with the division, align their foundational courses that are required in the same or substantially similar programs of study so as to achieve uniformity and transferability in the core program requirements at all such public colleges and universities. The purpose of uniformity is to ensure that postsecondary credits earned by a student in a professional-technical education program will transfer at the full credit value to any public Idaho college or university in a like program of study and to ensure that such postsecondary credits will be treated by any such public college or university as satisfying specific course requirements in the student's program of study.

(5) The state board of education may promulgate rules to implement the provisions of subsections (3) and (4) of this section.

Approved March 26, 2015

CHAPTER 151  
(S.B. No. 1125)

AN ACT

APPROPRIATING MONEYS TO THE SECRETARY OF STATE FOR FISCAL YEAR 2016; 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 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, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. SECRETARY OF STATE:			
FROM:			
General			
Fund	\$1,834,500	\$280,200	\$2,114,700
II. COMMISSION ON UNIFORM STATE LAWS:			
FROM:			
General			
Fund		\$44,600	\$44,600
GRAND TOTAL	\$1,834,500	\$324,800	\$2,159,300

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Secretary of State is authorized no more than twenty-seven (27) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 26, 2015

CHAPTER 152  
(H.B. No. 30)

AN ACT

RELATING TO CERTIFIED SHORTHAND REPORTERS; AMENDING SECTION 54-3103, IDAHO CODE, TO REVISE LANGUAGE RELATING TO CERTIFICATION; AMENDING SECTION 54-3105, IDAHO CODE, TO PROVIDE A NAME CHANGE; AMENDING SECTION 54-3109, IDAHO CODE, TO CLARIFY THE NUMBER OF PERMITS ALLOWED; AMENDING SECTION 54-3110, IDAHO CODE, TO REMOVE A PROVISION RELATING TO REINSTATEMENT FEES; AMENDING SECTION 54-3111, IDAHO CODE, TO REMOVE LANGUAGE RELATING TO AN APPLICATION DEADLINE; AND AMENDING SECTION 54-3114, IDAHO CODE, TO CLARIFY THAT PERMIT HOLDERS MAY SEEK JUDICIAL REVIEW.

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

SECTION 1. That Section 54-3103, Idaho Code, be, and the same is hereby amended to read as follows:

54-3103. CERTIFICATION REQUIRED. Except as expressly provided in this chapter, no person shall engage in the practice of shorthand reporting or be appointed to the position of district court reporter in any state district court, or before any master or referee, or as reporter for any board or commission of the state requiring shorthand reporting for any hearing, proceeding or trial unless such person is a certified shorthand reporter as defined in this chapter; provided that any district court reporter, or any reporter before a master or referee shall also possess such additional qualifications as the supreme court may prescribe by rule.

No person shall use the title of certified shorthand reporter or its abbreviations C.S.R. or CSR, or any similar words or letters in conjunction with such person's name to indicate the possession of qualifications to practice in this state as a certified shorthand reporter without having a valid temporary permit or regular certificate issued pursuant to this chapter and not revoked or suspended. A certificate or permit to practice shorthand reporting shall not be transferable.

SECTION 2. That Section 54-3105, Idaho Code, be, and the same is hereby amended to read as follows:

54-3105. CERTIFIED SHORTHAND REPORTERS BOARD -- MEMBERS -- TERM -- APPOINTMENT. (1) There is hereby created a state certified shorthand reporters board of the state of Idaho which shall consist of five (5) members. Three (3) members of the board shall be persons who have been nominated by the Idaho shorthand court reporters association. Nominees must possess a current license as a certified shorthand reporter and have had at least five (5) years continuous experience immediately prior to their nomination as a freelance shorthand reporter or official court reporter. One (1) other member of the board shall be an Idaho district judge nominated by the Idaho supreme court. The other member of the board shall be a member of the Idaho state bar and nominated by the Idaho state bar association. At least two (2) nominees for each position must be nominated by the nominating body.

(2) The members of the board shall hold office for terms of three (3) years each. Appointments to fill vacancies shall be for the unexpired term of such vacancies.

(3) Appointments to the board shall be made by the governor from the nominees set forth in this section and each member of the board shall hold office for the specified term and until a successor is duly appointed by the governor.

SECTION 3. That Section 54-3109, Idaho Code, be, and the same is hereby amended to read as follows:

54-3109. QUALIFICATIONS FOR TEMPORARY PERMIT -- RENEWAL. (1) A temporary certified shorthand reporter permit may be issued to an applicant who pays the required fees and who:

(a) Is of good moral character; and

(b) Has graduated from an accredited high school or has an equivalent education; and

(i) Is currently licensed in good standing in another state as a certified shorthand reporter, or its equivalent, or has otherwise demonstrated proficiency by a certificate from an agency of another state; or

(ii) Has graduated from a national court reporters association (NCRA) approved school.

(2) The application shall be upon such forms as are prescribed by the board and the board may in its discretion make additional investigation and inquiry, or require further information from the applicant, as it shall deem necessary in order to make a determination of the qualifications of the applicant.

(3) ~~All An individual shall only be issued one (1) temporary certified shorthand reporter permits. The permit shall be issued valid for a period of one (1) year and may be renewable renewed for a single additional period of one (1) year upon the payment of required fees and upon a showing of just cause.~~

SECTION 4. That Section 54-3110, Idaho Code, be, and the same is hereby amended to read as follows:

54-3110. FEES. The board shall be entitled to charge and collect the following fees:

(1) The sum of fifty dollars (\$50.00) as an application fee for any certificate or temporary permit.

(2) The sum of fifty dollars (\$50.00) as an examination fee for the administration of the reporters examination to any applicant.

(3) A sum not to exceed seventy-five dollars (\$75.00) as a renewal fee for any certificate or temporary permit.

~~(4) A sum not to exceed one hundred dollars (\$100) as a reinstatement fee for any application for reinstatement of a temporary permit or certificate which has been revoked or suspended.~~

(5) The failure to renew a certificate annually, prior to expiration, shall not deprive such person of the right of renewal or reinstatement in accordance with section 67-2614, Idaho Code.

(6) A sum not to exceed twenty dollars (\$20.00) as a fee for examination preparation materials.

SECTION 5. That Section 54-3111, Idaho Code, be, and the same is hereby amended to read as follows:

54-3111. EXAMINATIONS. The board shall conduct the Idaho certified shorthand reporter examination at least once every year and may conduct additional examinations. The board shall give public notice of the time and place of each examination at least one hundred twenty (120) days in advance of the date set for the examination and any person desiring to take the reporters examination must file his application with the board at least thirty (30) days prior to the date of the examination.

SECTION 6. That Section 54-3114, Idaho Code, be, and the same is hereby amended to read as follows:

54-3114. JUDICIAL REVIEW OF BOARD ACTION. Any person who shall be aggrieved by any action of the board in denying, refusing to renew, suspending, revoking or otherwise disciplining a certified shorthand reporter certificate or temporary permit may seek judicial review thereof as provided in chapter 52, title 67, Idaho Code. A copy of the petition for judicial review shall be served upon the board and upon the board's administrative legal counsel who shall represent the board in such appeal.

Approved March 26, 2015

CHAPTER 153  
(H.B. No. 107)

AN ACT

RELATING TO THE IMMUNIZATION ASSESSMENT BOARD; AMENDING SECTION 1, CHAPTER 283, LAWS OF 2013, TO EXTEND THE SUNSET DATE.

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

SECTION 1. That Section 1, Chapter 283, Laws of 2013, be, and the same is hereby amended to read as follows:

SECTION 4. The provisions of this Chapter 60, Title 41 shall be null, void and of no force and effect on and after July 1, 2015<sup>7</sup>.

Approved March 26, 2015

CHAPTER 154  
(H.B. No. 120, As Amended)

AN ACT

RELATING TO THE ECONOMIC ADVISORY COUNCIL; AMENDING SECTION 67-4704, IDAHO CODE, TO REVISE PROVISIONS RELATING TO WHO MAY BE APPOINTED TO THE ECONOMIC ADVISORY COUNCIL AND TO REVISE A PROVISION RELATING TO COMPENSATION FOR MEMBERS OF THE COUNCIL.

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

SECTION 1. That Section 67-4704, Idaho Code, be, and the same is hereby amended to read as follows:

67-4704. ECONOMIC ADVISORY COUNCIL -- APPOINTMENT OF MEMBERS -- QUALIFICATIONS. There shall be an economic advisory council to advise the department in the preparation and execution of plans, projects and programs in the furtherance of the power and duties conferred by section 67-4703, Idaho Code. The director shall consult, confer and advise with the advisory council in connection with all decisions concerning the administration and development of such plans, projects and programs. The approval of the advisory council shall be a condition precedent to the undertaking of action in the implementation of such plans, projects and programs by the department. The advisory council shall consist of ~~seven~~ eight (78) persons, who shall be appointed by and serve at the pleasure of the governor, and who shall serve for three (3) year terms. They shall serve and shall be compensated as provided by section 59-509 (~~bn~~), Idaho Code. One (1) person shall be appointed to represent each of the ~~six~~ seven (67) planning regions of the state, of which the appointee shall be a resident, and one (1) member shall serve in a statewide capacity. No more than ~~four~~ five (45) members of the economic advisory council shall be from any one (1) political party.

Approved March 26, 2015



CHAPTER 155  
(H.B. No. 128)

AN ACT

RELATING TO THE WITHDRAWAL OF CANDIDACY; AMENDING SECTION 34-717, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE WITHDRAWAL OF CANDIDACY.

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

SECTION 1. That Section 34-717, Idaho Code, be, and the same is hereby amended to read as follows:

34-717. WITHDRAWAL OF CANDIDACY. (1) A candidate for nomination or candidate for election to a partisan office may withdraw from the election by filing a notarized statement of withdrawal with the officer with whom his declaration of candidacy was filed. The statement must contain all information necessary to identify the candidate and the office sought and the reason for withdrawal. The filing officer shall immediately notify the proper central committee of the party, if any, of the individual withdrawing. A candidate may not withdraw later than forty-five (45) days before an election, except in the case of a primary election, when the deadline shall be no later than the eighth Friday preceding the primary election, or a general election, when the deadline shall be no later than September 7. Filing fees paid by the candidate shall not be refunded.

(2) Any candidate who has filed a statement of withdrawal pursuant to this section shall not be allowed to be appointed to fill a vacancy unless such vacancy occurs because of the death of a previous candidate.

Approved March 26, 2015

CHAPTER 156  
(H.B. No. 148)

AN ACT

RELATING TO THE IDAHO CHERRY COMMISSION; AMENDING SECTION 22-3701, IDAHO CODE, TO REVISE A DEFINITION; AMENDING SECTION 22-3703, IDAHO CODE, TO REMOVE CERTAIN DEFINITIONS AND TO MAKE A TECHNICAL CORRECTION; REPEALING SECTION 22-3704, IDAHO CODE, RELATING TO COMMISSION MEMBERS; AMENDING CHAPTER 37, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-3704, IDAHO CODE, TO PROVIDE FOR COMMISSION MEMBERS, TO PROVIDE FOR TERMS, TO PROVIDE FOR MEETINGS FOR THE SELECTION OF COMMISSION NOMINEES, TO PROVIDE FOR NOTICE OF MEETINGS AND TO PROVIDE FOR VACANCIES; AMENDING SECTION 22-3705, IDAHO CODE, TO REVISE AND TO PROVIDE FOR POWERS AND DUTIES AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 22-3701, Idaho Code, be, and the same is hereby amended to read as follows:

22-3701. POLICY AND PURPOSE. It is to the best interests of all the people of the state of Idaho that the abundant and natural resources of Idaho be protected, fully developed and uniformly distributed. It is in the public interest and within the exercise of the police power of the state to protect the public health; prevent fraudulent practices; provide the means for the development of markets; production research; and new product development

and promotion of the cherry industry. Cherries as used in this act chapter means Idaho sweet cherries.

SECTION 2. That Section 22-3703, Idaho Code, be, and the same is hereby amended to read as follows:

22-3703. DEFINITIONS. Definitions as used in this act chapter, unless the context requires otherwise:

- (1) "Commission" means the Idaho cherry commission.
- (2) "Grower" means any landowner personally engaged in growing cherries, a tenant personally engaged in growing cherries or both the owner and tenant jointly, and includes a person, partnership, association, corporation, cooperative organization, trust, sharecropper, or any and all other business units, devices and arrangements that grow cherries.
- (3) "Dealer" means any person, partnership, association, corporation, cooperative or other business unit or device who first handles, packs, ships, buys or sells cherries or who acts as sales or purchasing agent, broker or factor of cherries.
- (4) "Ship" means to load cherries into any mode of conveyance for transport in the channels of trade or to market.
- (5) "Processor" and "processing plant" means every person, partnership, association, corporation, cooperative or other business unit or device to whom and every place to which cherries are delivered for drying, freezing, dehydrating, canning, pressing, powdering, extracting, cooking and for use in producing a product or manufacturing a manufactured product.
- (6) ~~"District No. 1" shall consist of the following counties: Gem, Boise, Valley, Custer and Lemhi.~~
- (7) ~~"District No. 2" shall consist of the following counties: Canyon, Ada, Owyhee, Elmore, Camas, Blaine, Gooding, Lincoln, Minidoka, Jerome, Twin Falls, Cassia, Power, Oneida, Bannock, Franklin, Bear Lake, Caribou, Bonneville, Madison, Teton, Jefferson, Fremont, Butte, Clark, Bingham, Payette, Washington, Adams, Idaho, Lewis, Nez Perce, Clearwater, Latah, Benewah, Shoshone, Kootenai, Bonner and Boundary.~~
- (8) "Person" means any partnership, association, corporation, cooperative or other business unit or device.

SECTION 3. That Section 22-3704, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Chapter 37, 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 22-3704, Idaho Code, and to read as follows:

22-3704. COMMISSION MEMBERS -- NOMINATION AND APPOINTMENT. (1) The commission shall consist of five (5) members appointed by the governor following nomination. Three (3) members shall be growers and two (2) members shall be dealers.

(2) Members shall serve for a term of three (3) years. On and after the effective date of this act, terms that are currently held by the commission members shall expire and be filled on the following schedule: one (1) dealer term shall expire on July 1, 2015, one (1) dealer term shall expire on July 1, 2016, one (1) grower term shall expire on July 1, 2015, one (1) grower term shall expire on July 1, 2016, and one (1) grower term shall expire on July 1, 2017.

(3) Members of the commission may not serve more than two (2) consecutive terms. Upon serving two (2) consecutive terms and the lapse of one (1) full term, such member may again be nominated and appointed to the commission.

(4) Meetings shall be held for the selection of member nominees prior to expiration of a member's term and shall be held prior to March 31 of the year an appointment is to be made. In seeking nominations for a grower member, the commission shall conduct meetings at such times and places as determined by the commission during which time growers shall nominate two (2) qualified growers at large for each expiring member term. In seeking nominations for a dealer member, the commission shall conduct meetings at such times and places as determined by the commission, during which time dealers shall nominate two (2) qualified dealers at large for each expiring member term. Notice of the meetings for the nominations of growers and dealers shall be by publication in a newspaper of general circulation in any county in which a meeting is to be held and shall be published in two (2) issues of such newspaper, the first approximately thirty (30) days and the second approximately ten (10) days before said meeting. The notice shall state the purpose, time and place of said meeting.

(5) In the event there are vacancies in the commission through death, resignation or removal, it shall be the duty of the growers and dealers as provided in this section to submit to the governor at least two (2) qualified names for each grower vacancy and two (2) qualified names for each dealer vacancy. The governor shall make the appointment to fill the vacancy.

SECTION 5. That Section 22-3705, Idaho Code, be, and the same is hereby amended to read as follows:

22-3705. POWERS AND DUTIES. The Idaho cherry 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 and other personnel, including experts in agriculture and the publicizing of the products thereof, and to prescribe their duties and fix their compensation.
- (3) To establish offices and incur expenses and enter into contracts and to create such liabilities as may be reasonable for the proper administration and enforcement of this ~~aet~~ chapter.
- (4) To ~~find aid in finding~~ new markets for cherries and cherry products.
- (5) To give, publicize and promulgate reliable information showing the value of cherries and cherry products for any purpose for which they are found useful and profitable.
- (6) To make public and encourage the widespread national and international use of cherries and cherry products.
- (7) To investigate and participate in studies of the problems peculiar to the growers of cherries in the state of Idaho.
- (8) To take such action as to the commission seems necessary or advisable in order to promote the sale of cherries and to protect the cherry industry.
- (9) To enter into such contracts as may be necessary or advisable.
- (10) 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.
- (11) 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 objectives.
- (12) To investigate and prosecute in the name of the state of Idaho violations of this ~~aet~~ chapter; to investigate and prosecute in the name of the state of Idaho any suit or action for the collection of assessments as

hereinafter provided, or to protect brands, marks, packages, brand names or trademarks being promoted by the commission.

(13) To do any and all things that will promote the sale of cherries.

(14) To keep an accurate record of all its dealings, which shall be open to inspection by the state controller.

(15) To sue and be sued.

(16) To adopt and from time to time alter, rescind, modify and/or amend all proper and necessary rules, regulations and orders for the exercise of its powers and performance of its duties under this act chapter.

(17) To, in its discretion, by rule create districts within the state for the purpose of carrying out the provisions of this chapter.

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 26, 2015

CHAPTER 157  
(H.B. No. 153)

AN ACT

RELATING TO EMERGENCY MEDICAL SERVICES; AMENDING SECTION 31-3908, IDAHO CODE, TO DEFINE A TERM; AMENDING SECTION 31-3909, IDAHO CODE, TO REVISE LANGUAGE RELATING TO IMMUNITY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 56-1012, IDAHO CODE, TO DEFINE TERMS; AMENDING SECTION 56-1013, IDAHO CODE, TO AUTHORIZE THE PROVISION OF COMMUNITY HEALTH EMERGENCY MEDICAL SERVICES BY CERTAIN PERSONNEL; AMENDING SECTION 56-1014, IDAHO CODE, TO ESTABLISH IMMUNITY FOR PROVIDERS OF COMMUNITY HEALTH EMERGENCY MEDICAL SERVICES; AND PROVIDING LEGISLATIVE INTENT.

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

SECTION 1. That Section 31-3908, Idaho Code, be, and the same is hereby amended to read as follows:

31-3908. AMBULANCE DISTRICT AUTHORIZED. (1) The county commissioners of any county shall, upon petition signed by not less than fifty (50) qualified electors of said county, or any portion thereof, which may exclude incorporated cities, undertake the following procedure to determine the advisability of resolving to establish and maintain an ambulance service district within the county as may be designated in the petition.

(a) A petition to form an ambulance service district shall be presented to the county clerk and recorder. The petition shall be signed by not less than fifty (50) of the resident real property holders within the proposed district. The petition shall designate the boundaries of the district.

(b) The petition shall be filed with the county clerk and recorder of the county in which the signers of the petition are located. Upon the filing of the petition the county clerk shall examine the petition and certify whether the required number of petitioners have signed the petition. If the number of petition signers is sufficient, the clerk shall transmit the petition to the board of county commissioners.

(c) Upon receipt of a duly certified petition the board of county commissioners shall cause the text of the petition to be published once a week for at least three (3) consecutive weeks in a newspaper of general circulation within the county. With the publication of the petition

there shall be published a notice of the time of the meeting of the board of county commissioners when the petition will be considered stating that all persons interested may appear and be heard. No more than five (5) names attached to the petition shall appear in the publication and notice, but the number of signatures shall be stated.

At the time of filing the petition the sponsors thereof shall cause to be deposited with the county clerk a sufficient sum of money to cover the cost of publication of the petition and all necessary notices. If the petition and notices are not published the deposit shall be returned to whomever deposited the funds, and if there is any surplus remaining after paying for the publication as herein provided it shall be returned to the original depositors, and if a district is created the fees so expended are an obligation of the district and shall be repaid by the district to the depositors.

(d) At the time set for hearing the petition, the board of county commissioners shall hear all persons who desire to be heard relative to the creation of an ambulance service district. The board of county commissioners may, if they so desire and it appears desirable, adjourn the meeting for not to exceed thirty (30) days in time to further hear the petitioners and protestants, if any. After the hearing or hearings, the board of county commissioners shall adopt a resolution either creating the proposed ambulance service district or denying the petition. When the board of county commissioners creates an ambulance service district the board shall adopt a resolution describing the boundaries of the district.

(e) When the board of county commissioners adopts the resolution creating the ambulance service district, the board shall include in the resolution the name of the district, and file a copy of the order creating the district with the county clerk and recorder, for which the clerk shall receive a fee of three dollars (\$3.00).

(f) Procedures for annexation, deannexation, or dissolution of a district created pursuant to this section shall be in substantial compliance with the provisions for public notice and hearing provided herein, and shall be by resolution adopted by the board of county commissioners.

(2) When the board of county commissioners has ordered the creation of an ambulance service district, pursuant to the provisions of this section, such district is hereby recognized as a legal taxing district, and providing ambulance service is a governmental function.

(3) The board of county commissioners shall be the governing board of an ambulance service district created pursuant to this section, and shall exercise the duties and responsibilities provided in chapter 39, title 31, Idaho Code.

(4) In any county where an ambulance service district is created as provided herein, the board of county commissioners is authorized to levy a special tax, not to exceed four-hundredths percent (.04%) of market value for assessment purposes, except as authorized by paragraph (a) of this subsection, upon all taxable property within the district for the purposes of the district, but the levy otherwise authorized in section 31-3901, Idaho Code, shall not be made on taxable property within the district.

(a) In any county where an ambulance service district:

(i) Was created as of January 1, 1976,

(ii) Had at the time of its creation a market value for assessment purposes of the district of less than three hundred million dollars (\$300,000,000), and

(iii) The service provided by the district is an advanced life support paramedic unit,

the board of county commissioners may submit to the electors within the district the question of whether the levy authorized in subsection (4) of this section may be increased to a levy not to exceed six-hundredths

percent (.06%) of market value for assessment purposes upon all taxable property within the district for the purposes of the district, if approved by a minimum of two-thirds (2/3) of the qualified electors of the district voting at an election called for that purpose and held on the May or November dates provided in section 34-106, Idaho Code, but the levy otherwise authorized in section 31-3901, Idaho Code, shall not be made on taxable property within the district.

(5) The board of county commissioners is authorized by resolution to create an ambulance district capital improvement account. The board may dedicate all or a portion of the fees and taxes collected pursuant to this chapter to the capital improvement account for the purpose of purchasing necessary buildings, land or equipment for the operation of the district. The board is further authorized to carry over and add to the funds in the account from year to year in order to make the purchases authorized by this subsection.

(6) As used in this chapter, "ambulance district" or "ambulance service district" means a political subdivision formed to provide ambulance transport, emergency medical services as defined in section 56-1012, Idaho Code, community health emergency medical services as defined in section 56-1012, Idaho Code, and/or other activities necessary to meet the community health needs of the district.

SECTION 2. That Section 31-3909, Idaho Code, be, and the same is hereby amended to read as follows:

31-3909. IMMUNITY OF AMBULANCE ATTENDANT. No action shall lie or be maintained for civil damages in any court of this state against any person or persons, or group of persons, including ambulance attendants employed by an ambulance service district, who offers and administers first aid, ~~or~~ emergency medical attention or community health emergency medical services as a part of his normal duty as an ambulance attendant to any person or persons utilizing the services and facilities of an ambulance service district, unless it can be shown that the person or persons offering or administering first aid or emergency medical attention is guilty of gross negligence in the care or treatment offered or administered, or has treated them in a grossly negligent manner. The immunity described herein shall cease upon delivery of the injured or treated person to either a generally recognized hospital for treatment of ill or injured persons, or upon assumption of treatment in the office or facility of any person undertaking to treat said ill or injured person or persons.

SECTION 3. That Section 56-1012, Idaho Code, be, and the same is hereby amended to read as follows:

56-1012. DEFINITIONS. As used in sections 56-1011 through 56-1023, Idaho Code:

(1) "Advanced emergency medical technician" means a person who has met the qualifications for licensure as set forth in sections 56-1011 through 56-1023, Idaho Code, is licensed by the EMS bureau under sections 56-1011 through 56-1023, Idaho Code, carries out the practice of emergency care within the scope of practice determined by the commission and practices under the supervision of an Idaho licensed physician.

(2) "Agency" means any organization licensed by the EMS bureau that operates an air medical service, ambulance service or nontransport service.

(3) "Air ambulance" means any privately or publicly owned fixed wing aircraft or rotary wing aircraft used for, or intended to be used for, the transportation of persons experiencing physiological or psychological illness or injury who may need medical attention during transport. This may include dual or multipurpose vehicles which otherwise comply with sections

56-1011 through 56-1023, Idaho Code, and specifications established by board rule.

(4) "Air medical service" means an agency licensed by the EMS bureau that responds to requests for patient care and transportation from hospitals and EMS agencies using a fixed wing aircraft or rotary wing aircraft.

(5) "Ambulance" means any privately or publicly owned motor vehicle or nautical vessel used for, or intended to be used for, the transportation of sick or injured persons who may need medical attention during transport. This may include dual or multipurpose vehicles which otherwise comply with sections 56-1011 through 56-1023, Idaho Code, and specifications established by board rule.

(6) "Ambulance service" means an agency licensed by the EMS bureau operated with the intent to provide personnel and equipment for medical treatment at an emergency scene, during transportation or during transfer of persons experiencing physiological or psychological illness or injury who may need medical attention during transport.

(7) "Applicant" means any organization that is requesting an agency license under this chapter and includes the following:

(a) An organization seeking a new license;

(b) An existing agency that intends to change the level of licensed personnel it utilizes;

(c) An existing agency that intends to change its geographic coverage area, except by agency annexation;

(d) An existing nontransport service that intends to provide ambulance service;

(e) An existing ambulance service that intends to discontinue transport and become a nontransport service.

(8) "Board" means the Idaho board of health and welfare.

(9) "Commission" means the Idaho emergency medical services physician commission.

(10) "Community emergency medical technician" or "community EMT" means an emergency medical technician or advanced emergency medical technician with additional standardized training who works within a designated community health emergency medical services program under local medical control as part of a community-based team of health and social services providers.

(11) "Community health emergency medical services" or "community health EMS" means the evaluation, advice or treatment of an eligible recipient outside of a hospital setting, which is specifically requested for the purpose of preventing or improving a particular medical condition, and which is provided by a licensed emergency medical services agency. Community health EMS involving or related to emergency response must be provided by or in coordination with the primary 911 response agency for that area.

(12) "Community paramedic" means a paramedic with additional standardized training who works within a designated community health emergency medical services program under local medical control as part of a community-based team of health and social services providers.

(13) "Department" means the Idaho department of health and welfare.

(14) "Eligible recipient" means an individual eligible to receive community health emergency medical services, as determined by rule of the EMS bureau or a local community health emergency medical services program.

(15) "Emergency medical responder" means a person who has met the qualifications for licensure as set forth in sections 56-1011 through 56-1023, Idaho Code, is licensed by the EMS bureau under sections 56-1011 through 56-1023, Idaho Code, carries out the practice of emergency care within the scope of practice determined by the commission and practices under the supervision of an Idaho licensed physician.

(16) "Emergency medical services" or "EMS" means aid rendered by an individual or group of individuals who do the following:

- (a) Respond to a perceived need for medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury;
- (b) Are prepared to provide interventions that are within the scope of practice as defined by the commission;
- (c) Use an alerting mechanism to initiate a response to requests for medical care; and
- (d) Offer, advertise or attempt to respond as described in paragraphs (a) through (c) of this subsection.

Aid rendered by a ski patroller, as described in section 54-1804(1)(h), Idaho Code, is not EMS.

(137) "EMS bureau" means the bureau of emergency medical services of the department.

(148) "Emergency medical technician" means a person who has met the qualifications for licensure as set forth in sections 56-1011 through 56-1023, Idaho Code, is licensed by the EMS bureau under sections 56-1011 through 56-1023, Idaho Code, carries out the practice of emergency care within the scope of practice determined by the commission and practices under the supervision of an Idaho licensed physician.

(159) "Licensed personnel" means those individuals who are emergency medical responders, emergency medical technicians, advanced emergency medical technicians and paramedics.

(1620) "National emergency medical services information system technical assistance center" means an organization that validates software for compliance with the EMS data set defined by the United States department of transportation national highway traffic safety administration.

(1721) "Nontransport service" means an agency licensed by the EMS bureau, operated with the intent to provide personnel or equipment for medical stabilization at an emergency scene, but not intended to be the service that will actually transport sick or injured persons.

(1822) "Nontransport vehicle" means any vehicle operated by an agency with the intent to provide personnel or equipment for medical stabilization at an emergency scene, but not intended as the vehicle that will actually transport sick or injured persons.

(1923) "Paramedic" means a person who has met the qualifications for licensure as set forth in sections 56-1011 through 56-1023, Idaho Code, is licensed by the EMS bureau under sections 56-1011 through 56-1023, Idaho Code, carries out the practice of emergency care within the scope of practice determined by the commission and practices under the supervision of an Idaho licensed physician.

(204) "Supervision" means the medical direction by a licensed physician of activities provided by licensed personnel affiliated with a licensed ambulance, air medical or nontransport service, including, but not limited to: establishing standing orders and protocols, reviewing performance of licensed personnel, providing instructions for patient care via radio or telephone, and other oversight.

(215) "Transfer" means the transportation of a patient from one (1) medical care facility to another.

SECTION 4. That Section 56-1013, Idaho Code, be, and the same is hereby amended to read as follows:

56-1013. AUTHORIZED ACTIONS. Persons licensed by the EMS bureau shall be authorized to perform such acts under written or oral authorization of a licensed physician as shall be established by rules of the commission, including, but not limited to, administration of intravenous solutions and drugs, cardiac defibrillation, airway management, endotracheal intubation, community health emergency medical services and other patient care.



SECTION 5. That Section 56-1014, Idaho Code, be, and the same is hereby amended to read as follows:

56-1014. LIABILITY. (1) No act or omission of any person who is duly licensed under sections 56-1011 through 56-1023, Idaho Code, by the EMS bureau done or omitted in good faith while rendering emergency medical services to a person or persons who are perceived to need immediate care in order to prevent loss of life or aggravation of physiological or psychological illness or injury shall impose any liability upon those personnel, the supervising physician, the hospital, the organization providing the service, or upon a federal, state, county, city or other local governmental unit, or upon employees of such governmental unit, unless such provider of care or such personnel be shown to have caused injury and damages to such person or persons as a proximate result of his, her or their reckless or grossly negligent misconduct, which shall be the sole grounds for civil liability of such persons in the provision of care or assistance under sections 56-1011 through 56-1023, Idaho Code, regardless of the circumstance under which such care or assistance may be provided. This section shall not relieve the organization or agency operating the service from the duty of securing, maintaining and operating, the equipment and licensure designated for use in performing the emergency medical services.

(2) The provisions of subsection (1) of this section shall apply to licensed personnel of another state of the United States who enter this state in response to an emergency to render emergency medical services to a person who is perceived to need immediate care in order to prevent loss of life or aggravation of physiological or psychological illness or injury.

(3) No act or omission of any person authorized under this chapter to provide community health emergency medical services shall impose any liability upon such person or the person's agency or supervising physician where the act or omission occurs in the course of providing authorized services and is done or omitted in good faith, unless the person is shown to have caused injury as a result of reckless or grossly negligent misconduct.

SECTION 6. LEGISLATIVE INTENT. It is the intent of the Legislature that the Idaho Emergency Medical Services Physician Commission and the EMS Bureau promulgate rules to govern community health emergency medical services in Idaho.

Approved March 26, 2015

CHAPTER 158  
(H.B. No. 159)

AN ACT

RELATING TO TOBACCO; AMENDING SECTION 39-5703, IDAHO CODE, TO REVISE A PROVISION RELATING TO SELLING OR DISTRIBUTING TOBACCO PRODUCTS, TO PROVIDE THAT CERTAIN TOBACCO VIOLATIONS BY A MINOR SHALL BE AN INFRACTION AND TO REVISE PENALTIES.

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

SECTION 1. 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 sell or distribute tobacco products or electronic cigarettes or to attempt either of the foregoing.

(3) 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.

(34) A minor who is assisting with a random unannounced inspection in accordance with this chapter shall not be in violation of this chapter.

(45) 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.

(56) Penalties for violations by a minor. A violation of subsection (1) of this section by a minor shall constitute an infraction and shall be punishable by a fine of seventeen dollars and fifty cents (\$17.50). The first violation of subsection (2) or (3) of this section by a minor shall constitute an infraction and shall be punishable by a fine of two hundred dollars (\$200). A subsequent violation of subsection (2) or (3) of this chapter section by a minor shall constitute a misdemeanor and shall be punishable by imprisonment in an appropriate facility not exceeding ~~six~~ thirty (630) ~~months~~ days, 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.

Approved March 26, 2015

CHAPTER 159  
(H.B. No. 178)

AN ACT

RELATING TO HEALTH CARE; AMENDING SECTION 39-5905, IDAHO CODE, TO REVISE THE MAXIMUM AMOUNT OF EDUCATIONAL DEBT REPAYMENTS FOR RURAL PHYSICIANS AND TO PROVIDE THAT THE REVIEW BOARD SHALL MAKE A CERTAIN CONSIDERATION BEFORE GRANTING AWARDS.

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

SECTION 1. 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.

(b) Applicants may propose projects for funding for up to three (3) years.

(i) 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.

(ii) No project may be funded for more than a total of three (3) years.

(iii) Any unused grant funds shall be returned to the rural health care access fund by the applicant no later than June 1 of the grant period.

(c) 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 one hundred thousand dollars (\$5100,000) 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~~ In determining the awards to be made in any given year, the board shall consider the value of retaining an appropriate balance in the fund for use in future years.

(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.

Approved March 26, 2015

CHAPTER 160  
(H.B. No. 226)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR FISCAL YEAR 2016; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Juvenile Corrections, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>I. ADMINISTRATION:</b>					
FROM:					
General					
Fund	\$2,631,900	\$867,600		\$30,000	\$3,529,500
Miscellaneous Revenue					
Fund	76,900	34,400			111,300
State Juvenile Corrections Center Endowment Income					
Fund	<u>0</u>	<u>0</u>	<u>\$330,000</u>	<u>0</u>	<u>330,000</u>
TOTAL	\$2,708,800	\$902,000	\$330,000	\$30,000	\$3,970,800
<b>II. COMMUNITY, OPERATIONS, AND PROGRAM SERVICES:</b>					
FROM:					
General					
Fund	\$1,077,900	\$134,600		\$4,243,900	\$5,456,400
Juvenile Corrections					
Fund	900	84,700			85,600
Juvenile Corrections - Cigarette/Tobacco Tax					
Fund				5,125,000	5,125,000
Miscellaneous Revenue					
Fund		157,300		327,000	484,300
Federal Grant					
Fund	<u>150,100</u>	<u>249,600</u>		<u>1,334,000</u>	<u>1,733,700</u>
TOTAL	\$1,228,900	\$626,200		\$11,029,900	\$12,885,000
<b>III. INSTITUTIONS:</b>					
FROM:					
General					
Fund	\$20,255,300	\$1,909,500	\$16,800	\$4,651,500	\$26,833,100
Miscellaneous Revenue					
Fund	20,400	238,600		460,000	719,000
State Juvenile Corrections Center Endowment Income					
Fund		808,800	71,200		880,000
Federal Grant					
Fund	<u>160,100</u>	<u>768,400</u>	<u>0</u>	<u>1,195,400</u>	<u>2,123,900</u>
TOTAL	\$20,435,800	\$3,725,300	\$88,000	\$6,306,900	\$30,556,000
<b>IV. COMMUNITY-BASED SUBSTANCE ABUSE TREATMENT SERVICES:</b>					
FROM:					
General					
Fund	\$157,000	\$54,800		\$3,830,700	\$4,042,500
GRAND TOTAL	\$24,530,500	\$5,308,300	\$418,000	\$21,197,500	\$51,454,300

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Juvenile Corrections is authorized no more than four hundred ten (410) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 26, 2015

CHAPTER 161  
(H.B. No. 227)

AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF VETERANS SERVICES FOR FISCAL YEAR 2016; 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 Division of Veterans Services, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$938,000			\$49,400	\$987,400
Veterans Recognition Income					
Fund				400,000	400,000
Miscellaneous Revenue					
Fund	12,317,800	\$2,259,300	\$131,300		14,708,400
Veterans Home Endowment Income					
Fund	167,500	587,100	137,300	1,500	893,400
Federal Grant					
Fund	<u>6,563,000</u>	<u>7,947,400</u>	<u>669,100</u>	<u>0</u>	<u>15,179,500</u>
TOTAL	\$19,986,300	\$10,793,800	\$937,700	\$450,900	\$32,168,700

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Division of Veterans Services is authorized no more than three hundred thirty-one (331) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 26, 2015

CHAPTER 162  
(H.B. No. 228)

AN ACT

APPROPRIATING MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 2016; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Public Utilities Commission, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Indirect Cost Recovery				
Fund		\$100,000		\$100,000
Public Utilities Commission				
Fund	\$4,064,100	1,604,500	\$87,500	5,756,100
Federal Grant				
Fund	<u>238,400</u>	<u>69,200</u>	<u>0</u>	<u>307,600</u>
TOTAL	\$4,302,500	\$1,773,700	\$87,500	\$6,163,700

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Public Utilities Commission is authorized no more than fifty-two (52) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 26, 2015

CHAPTER 163  
(H.B. No. 229)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE MILITARY DIVISION FOR THE MILITARY MANAGEMENT PROGRAM TO COVER INAUGURATION EXPENSES FOR FISCAL YEAR 2015; APPROPRIATING MONEYS TO THE MILITARY DIVISION FOR FISCAL YEAR 2016; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING CLARIFICATION AND GUIDANCE REGARDING THE FLAT TOP BUTTE COMMUNICATION SITE; GRANTING A CONTINUOUS APPROPRIATION FOR A CERTAIN FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 206, Laws of 2014, and any other appropriation provided for by law, there is hereby appropriated \$25,000 from the General Fund to the Military Division for the Military Management Program, to be expended for operating expendi-

tures, for the period July 1, 2014, through June 30, 2015, for the purpose of covering inauguration expenses.

SECTION 2. 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, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>I. MILITARY MANAGEMENT:</b>					
FROM:					
General					
Fund	\$1,813,500	\$383,200	\$230,600	\$250,000	\$2,677,300
Indirect Cost Recovery					
Fund	335,500	20,700			356,200
Miscellaneous Revenue					
Fund	<u>0</u>	<u>115,900</u>	<u>0</u>	<u>0</u>	<u>115,900</u>
TOTAL	\$2,149,000	\$519,800	\$230,600	\$250,000	\$3,149,400
<b>II. FEDERAL/STATE AGREEMENTS:</b>					
FROM:					
General					
Fund	\$749,400	\$1,050,600	\$20,000		\$1,820,000
Miscellaneous Revenue					
Fund	1,418,000	435,200			1,853,200
Federal Grant					
Fund	<u>17,716,100</u>	<u>14,412,000</u>	<u>20,000</u>		<u>32,148,100</u>
TOTAL	\$19,883,500	\$15,897,800	\$40,000		\$35,821,300
<b>III. BUREAU OF HOMELAND SECURITY:</b>					
FROM:					
General					
Fund	\$1,599,400	\$204,200	\$40,000		\$1,843,600
Administration and Accounting Services					
Fund	2,156,000	1,357,400	392,800		3,906,200
Federal Grant					
Fund	<u>2,347,900</u>	<u>5,907,100</u>	<u>0</u>	<u>\$14,937,900</u>	<u>23,192,900</u>
TOTAL	\$6,103,300	\$7,468,700	\$432,800	\$14,937,900	\$28,942,700
GRAND TOTAL	\$28,135,800	\$23,886,300	\$703,400	\$15,187,900	\$67,913,400

SECTION 3. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Military Division is authorized no more than three hundred seventeen and eight-tenths (317.8) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. FLAT TOP BUTTE. Of the amount appropriated to the Military Division from the Administration and Accounting Services Fund in Section 2 of this act, \$18,100 in one-time spending authority is included to pay the Department of Lands for back rent due on the Flat Top Butte communication site that is located on endowment trust property. It does not include funding for any interest or penalties that may have been assessed, due, and owing; and the Department of Lands shall not bill the Military Division for such amounts.

SECTION 5. 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, 2015, through June 30, 2016, for the purpose of covering incurred costs arising out of hazardous substance incidents.

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, 2015

CHAPTER 164  
(H.B. No. 230)

AN ACT  
APPROPRIATING MONEYS TO THE PUBLIC HEALTH DISTRICTS FOR FISCAL YEAR 2016.

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

SECTION 1. There is hereby appropriated to the Public Health Districts \$8,719,200 from the General Fund to be transferred to the Public Health Trust Fund in accordance with the provisions of Section 39-425, Idaho Code, for the period July 1, 2015, through June 30, 2016.

Approved March 26, 2015

CHAPTER 165  
(H.B. No. 231)

AN ACT  
APPROPRIATING MONEYS TO THE ENDOWMENT FUND INVESTMENT BOARD FOR FISCAL YEAR 2016; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING A CONTINUOUS APPROPRIATION FOR CERTAIN COSTS; AND EXPRESSING LEGISLATIVE INTENT REGARDING THE TRANSFER OF MONEYS FROM THE EARNINGS RESERVE FUNDS TO THE INCOME FUNDS.

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

SECTION 1. There is hereby appropriated to the Endowment Fund Investment Board, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:



	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Miscellaneous Revenue				
Fund	\$105,500	\$30,400		\$135,900
Endowment Administrative				
Fund	<u>342,900</u>	<u>164,000</u>	<u>\$1,700</u>	<u>508,600</u>
TOTAL	\$448,400	\$194,400	\$1,700	\$644,500

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Endowment Fund Investment Board is authorized no more than three and seven-tenths (3.7) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. The Endowment Fund Investment Board is hereby granted continuous appropriation authority for consulting fees, bank custodial fees, and portfolio-related external costs for the period July 1, 2015, through June 30, 2016.

SECTION 4. LEGISLATIVE INTENT. It is the intent of the Legislature that for fiscal year 2016, the Endowment Fund Investment Board transfer \$56,473,200 as follows: \$32,758,800 from the Public School Earnings Reserve Fund to the Public School Income Fund; \$1,288,800 from the Agricultural College Earnings Reserve Fund to the Agricultural College Income Fund; \$4,500,000 from the Charitable Institutions Earnings Reserve Fund to the Charitable Institutions Income Fund; \$3,608,400 from the Normal School Earnings Reserve Fund to the Normal School Income Fund; \$1,872,000 from the Penitentiary Earnings Reserve Fund to the Penitentiary Income Fund; \$3,866,400 from the Scientific School Earnings Reserve Fund to the Scientific School Income Fund; \$4,562,400 from the Mental Hospital Earnings Reserve Fund to the Mental Hospital Income Fund; and \$4,016,400 from the University Earnings Reserve Fund to the University Income Fund.

Approved March 26, 2015

CHAPTER 166  
(H.B. No. 232)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE CHILDREN'S MENTAL HEALTH PROGRAM FOR FISCAL YEAR 2015; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE ADULT MENTAL HEALTH PROGRAM FOR FISCAL YEAR 2015; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE SUBSTANCE ABUSE TREATMENT AND PREVENTION PROGRAM FOR FISCAL YEAR 2015; AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT POSITIONS FOR THE SUBSTANCE ABUSE TREATMENT AND PREVENTION PROGRAM FOR FISCAL YEAR 2015; REDUCING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS FOR THE SOUTHWEST IDAHO TREATMENT CENTER PROGRAM FOR FISCAL YEAR 2015; 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 294, Laws of 2014, and any other appropriation provided for by law, there is hereby appropriated \$615,000 from the Cooperative Welfare (General) Fund to the Department of Health and Welfare for the Children's Mental Health Program, to be expended for operating expenditures, for the period July 1, 2014, through June 30, 2015.

SECTION 2. Notwithstanding any other provision of law to the contrary, the appropriation made to the Department of Health and Welfare for the Adult Mental Health Program in Section 1, Chapter 315, Laws of 2014, from the Cooperative Welfare (General) Fund, is hereby reduced by \$615,000 for trustee and benefit payments, for the period July 1, 2014, through June 30, 2015.

SECTION 3. In addition to the appropriation made in Section 1, Chapter 294, Laws of 2014, and any other appropriation provided for by law, there is hereby appropriated from the Cooperative Welfare (Federal) Fund to the Department of Health and Welfare for the Substance Abuse Treatment and Prevention Program, the following amounts to be expended for the designated expense classes, for the period July 1, 2014, through June 30, 2015:

FOR:

Personnel Costs	\$260,500
Operating Expenditures	68,000
Trustee and Benefit Payments	<u>468,200</u>
TOTAL	\$796,700

SECTION 4. FTP AUTHORIZATION. The full-time equivalent position authorization provided to the Department of Health and Welfare for the Substance Abuse Treatment and Prevention Program in Section 2, Chapter 294, Laws of 2014, is increased by two (2) for the period July 1, 2014, through June 30, 2015.

SECTION 5. FTP AUTHORIZATION. The full-time equivalent position authorization provided to the Department of Health and Welfare for the Southwest Idaho Treatment Center Program in Section 2, Chapter 295, Laws of 2014, is reduced by two (2) for the period July 1, 2014, through June 30, 2015.

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 26, 2015

CHAPTER 167  
(S.B. No. 1138)

AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF FINANCIAL MANAGEMENT FOR FISCAL YEAR 2016; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Division of Financial Management, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General			
Fund	\$1,499,600	\$164,600	\$1,664,200
Miscellaneous Revenue			
Fund	<u>35,700</u>	<u>7,100</u>	<u>42,800</u>
TOTAL	\$1,535,300	\$171,700	\$1,707,000

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Division of Financial Management is authorized no more than fifteen (15) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 30, 2015

CHAPTER 168  
(S.B. No. 1139)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF INSURANCE FOR FISCAL YEAR 2016;  
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 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, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. INSURANCE REGULATION:				
FROM:				
Insurance Administrative				
Fund	\$4,370,400	\$2,823,100	\$96,200	\$7,289,700
Federal Grant				
Fund	<u>259,200</u>	<u>398,100</u>	<u>0</u>	<u>657,300</u>
TOTAL	\$4,629,600	\$3,221,200	\$96,200	\$7,947,000
II. STATE FIRE MARSHAL:				
FROM:				
Arson, Fire and Fraud Prevention				
Fund	<u>\$682,100</u>	<u>\$336,200</u>	<u>\$63,200</u>	<u>\$1,081,500</u>
TOTAL	\$682,100	\$336,200	\$63,200	\$1,081,500
GRAND TOTAL	\$5,311,700	\$3,557,400	\$159,400	\$9,028,500

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Insurance is authorized no more than seventy-three and five-tenths (73.5) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 30, 2015

CHAPTER 169  
(S.B. No. 1140)

AN ACT

APPROPRIATING MONEYS TO THE INDUSTRIAL COMMISSION FOR FISCAL YEAR 2016; 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 Industrial Commission, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>I. COMPENSATION:</b>					
FROM:					
Industrial Administration					
Fund	\$3,431,000	\$1,070,700	\$56,100	\$1,185,100	\$5,742,900
Peace Officer and Detention Officer Temporary Disability					
Fund	7,800	3,800		156,100	167,700
Miscellaneous Revenue					
Fund	<u>0</u>	<u>45,000</u>	<u>0</u>	<u>0</u>	<u>45,000</u>
<b>TOTAL</b>	<b>\$3,438,800</b>	<b>\$1,119,500</b>	<b>\$56,100</b>	<b>\$1,341,200</b>	<b>\$5,955,600</b>
<b>II. REHABILITATION:</b>					
FROM:					
Industrial Administration					
Fund	\$3,208,400	\$629,700	\$136,200		\$3,974,300
<b>III. CRIME VICTIMS COMPENSATION:</b>					
FROM:					
Crime Victims Compensation					
Fund	\$784,200	\$243,000	\$1,900	\$2,000,000	\$3,029,100
Federal Grant					
Fund	<u>0</u>	<u>0</u>	<u>0</u>	<u>800,000</u>	<u>800,000</u>
<b>TOTAL</b>	<b>\$784,200</b>	<b>\$243,000</b>	<b>\$1,900</b>	<b>\$2,800,000</b>	<b>\$3,829,100</b>

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
IV. ADJUDICATION:					
FROM:					
Industrial Administration					
Fund	\$1,713,100	\$561,400	\$2,600		\$2,277,100
GRAND TOTAL	\$9,144,500	\$2,553,600	\$196,800	\$4,141,200	\$16,036,100

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Industrial Commission is authorized no more than one hundred thirty-eight and twenty-five hundredths (138.25) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 30, 2015

CHAPTER 170  
(S.B. No. 1141)

AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF BUILDING SAFETY FOR FISCAL YEAR 2016; 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 Division of Building Safety, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
State Regulatory				
Fund	\$8,087,200	\$1,775,600	\$238,900	\$10,101,700
Miscellaneous Revenue/Industrial Safety				
Fund	655,100	92,000	2,800	749,900
Miscellaneous Revenue/Logging				
Fund	350,700	70,100	28,900	449,700
Federal Grant				
Fund	<u>39,300</u>	<u>46,000</u>	<u>0</u>	<u>85,300</u>
TOTAL	\$9,132,300	\$1,983,700	\$270,600	\$11,386,600

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Division of Building Safety is authorized no more than one hundred twenty-one (121) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 30, 2015

CHAPTER 171  
(S.B. No. 1142)

AN ACT

RELATING TO APPROPRIATIONS FOR THE LEGISLATIVE BRANCH; APPROPRIATING MONEYS TO THE LEGISLATIVE SERVICES OFFICE FOR FISCAL YEAR 2016; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES TO THE LEGISLATIVE SERVICES OFFICE; EXEMPTING APPROPRIATION OBJECT TRANSFER LIMITATIONS FOR THE LEGISLATIVE SERVICES OFFICE; APPROPRIATING MONEYS TO THE OFFICE OF PERFORMANCE EVALUATIONS FOR FISCAL YEAR 2016; AND EXEMPTING APPROPRIATION OBJECT TRANSFER LIMITATIONS FOR THE OFFICE OF PERFORMANCE EVALUATIONS.

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

SECTION 1. There is hereby appropriated to the Legislative Branch, Legislative Services Office, the following amounts to be expended according to the designated expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. LEGISLATIVE SERVICES OFFICE:			
FROM:			
General			
Fund	\$4,476,400	\$218,000	\$4,694,400
Miscellaneous Revenue			
Fund	131,300	524,000	655,300
Legislative Capitol Facilities			
Fund		440,000	440,000
Professional Services			
Fund	<u>1,276,700</u>	<u>107,000</u>	<u>1,383,700</u>
TOTAL	\$5,884,400	\$1,289,000	\$7,173,400

SECTION 2. REAPPROPRIATION AUTHORITY FOR THE PROFESSIONAL SERVICES FUND. There is hereby reappropriated to the Legislative Services Office any unexpended and unencumbered balances of moneys in the Professional Services Fund as appropriated or reappropriated for fiscal year 2015, to be used for nonrecurring expenditures, for the period July 1, 2015, through June 30, 2016.

SECTION 3. EXEMPTIONS FROM OBJECT TRANSFER LIMITATIONS FOR THE LEGISLATIVE SERVICES OFFICE. For fiscal year 2016, the Legislative Services Office 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, 2015, through June 30, 2016. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 4. There is hereby appropriated to the Office of Performance Evaluations, the following amounts to be expended according to the designated expense classes, from the General Fund for the period July 1, 2015, through June 30, 2016:

FOR:

Personnel Costs	\$727,500
Operating Expenditures	89,400
Capital Outlay	<u>1,900</u>
TOTAL	\$818,800

SECTION 5. EXEMPTIONS FROM OBJECT TRANSFER LIMITATIONS FOR THE OFFICE OF PERFORMANCE EVALUATIONS. For fiscal year 2016, the Office of Performance Evaluations 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, 2015, through June 30, 2016. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

Approved March 30, 2015

CHAPTER 172  
(S.B. No. 1143)

AN ACT

APPROPRIATING MONEYS TO THE EXECUTIVE OFFICE OF THE GOVERNOR FOR FISCAL YEAR 2016; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND EXEMPTING APPROPRIATION OBJECT AND PROGRAM TRANSFER LIMITATIONS.

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

SECTION 1. There is hereby appropriated to the 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, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. ACTING GOVERNOR PAY:			
FROM:			
General			
Fund	\$18,200		\$18,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
II. ADMINISTRATION - GOVERNOR'S OFFICE:			
FROM:			
General			
Fund	\$1,813,000	\$196,400	\$2,009,400
III. EXPENSE ALLOWANCE:			
FROM:			
General			
Fund		\$5,000	\$5,000
GRAND TOTAL	\$1,831,200	\$201,400	\$2,032,600

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Executive Office of the Governor is authorized no more than twenty-two (22) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, 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 2016, 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, 2015, through June 30, 2016. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

Approved March 30, 2015

CHAPTER 173  
(S.B. No. 1144)

AN ACT

RELATING TO APPROPRIATIONS, DISTRIBUTIONS AND TRANSFERS OF IDAHO MILLENNIUM FUNDS; APPROPRIATING MONEYS TO THE STATE TREASURER FOR DISTRIBUTION TO THE IDAHO ACADEMY OF FAMILY PHYSICIANS FOR FISCAL YEAR 2016; APPROPRIATING MONEYS TO THE STATE TREASURER FOR DISTRIBUTION TO THE AMERICAN LUNG ASSOCIATION OF IDAHO FOR FISCAL YEAR 2016; APPROPRIATING MONEYS TO THE IDAHO PUBLIC HEALTH DISTRICTS FOR THE PUBLIC HEALTH DISTRICT MILLENNIUM FUND CESSATION PROGRAM FOR FISCAL YEAR 2016; APPROPRIATING MONEYS TO THE STATE TREASURER FOR DISTRIBUTION TO THE IDAHO ASSOCIATION OF COUNTIES FOR FISCAL YEAR 2016; APPROPRIATING MONEYS TO THE STATE TREASURER FOR DISTRIBUTION TO THE AMERICAN CANCER SOCIETY CANCER ACTION NETWORK FOR FISCAL YEAR 2016; APPROPRIATING MONEYS TO THE STATE TREASURER FOR DISTRIBUTION TO THE IDAHO YOUTH RANCH FOR FISCAL YEAR 2016; APPROPRIATING MONEYS TO THE STATE TREASURER FOR DISTRIBUTION TO THE SUPPORTIVE HOUSING AND INNOVATIVE PARTNERSHIPS INC. OF IDAHO FOR FISCAL YEAR 2016; APPROPRIATING MONEYS TO THE STATE TREASURER FOR DISTRIBUTION TO THE IDAHO DRUG FREE YOUTH FOR FISCAL YEAR 2016; APPROPRIATING MONEYS TO THE STATE TREASURER FOR DISTRIBUTION TO THE FOUNDATION FOR THE IDAHO



CONFERENCE ON ALCOHOL AND DRUG DEPENDENCY INC. FOR FISCAL YEAR 2016; APPROPRIATING MONEYS TO THE STATE TREASURER FOR DISTRIBUTION TO THE COMMUNITY COALITIONS OF IDAHO FOR FISCAL YEAR 2016; APPROPRIATING MONEYS TO THE STATE TREASURER FOR DISTRIBUTION TO THE BOYS AND GIRLS CLUB OF IDAHO FOR FISCAL YEAR 2016; APPROPRIATING MONEYS TO THE STATE TREASURER FOR DISTRIBUTION TO THE IDAHO METH PROJECT FOR FISCAL YEAR 2016; APPROPRIATING MONEYS TO THE IDAHO STATE POLICE FOR TOBACCO PERMITTEE COMPLIANCE INSPECTIONS FOR FISCAL YEAR 2016; APPROPRIATING MONEYS TO THE IDAHO DEPARTMENT OF JUVENILE CORRECTIONS FOR THE YOUTH PREVENTION AND CESSATION PROGRAMS FOR FISCAL YEAR 2016; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE PHYSICAL HEALTH SERVICES PROGRAM FOR FISCAL YEAR 2016; APPROPRIATING MONEYS TO THE IDAHO DEPARTMENT OF CORRECTION FOR THE COMMUNITY-BASED SUBSTANCE ABUSE TREATMENT SERVICES PROGRAM FOR FISCAL YEAR 2016; APPROPRIATING MONEYS TO BOISE STATE UNIVERSITY FOR THE INSTITUTE FOR THE STUDY OF ADDICTION FOR FISCAL YEAR 2016; APPROPRIATING AND TRANSFERRING MONEYS TO THE IDAHO MILLENNIUM PERMANENT ENDOWMENT FUND FOR FISCAL YEAR 2016; PROVIDING THAT CERTAIN UNEXPENDED AND UNENCUMBERED BALANCE OF MONEYS SHALL REVERT TO THE IDAHO MILLENNIUM INCOME FUND AT THE END OF FISCAL YEAR 2016; AND TRANSFERRING ANY REMAINING UNEXPENDED AND UNENCUMBERED BALANCE OF MONEYS IN THE IDAHO MILLENNIUM INCOME FUND TO THE IDAHO MILLENNIUM PERMANENT ENDOWMENT FUND AT THE END OF FISCAL YEAR 2016.

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

SECTION 1. There is hereby appropriated \$68,500 from the Idaho Millennium Income Fund to the State Treasurer for distribution to the Idaho Academy of Family Physicians for the period July 1, 2015, through June 30, 2016. The purpose of this grant is for the Tar Wars Program, which is designed to teach children how to make positive decisions regarding their health. Tar Wars is a tobacco-free education program for fourth-grade and fifth-grade students.

SECTION 2. There is hereby appropriated \$186,900 from the Idaho Millennium Income Fund to the State Treasurer for distribution to the American Lung Association in Idaho for the period July 1, 2015, through June 30, 2016. The purpose of this grant is to provide youth tobacco prevention services to Idaho youth through participation in three American Lung Association programs statewide: Teens Against Tobacco Use (TATU), to train teens in grades 8 through 12 to provide tobacco prevention presentations in grades 4 through 7; Support Teens Against Nicotine Dependency (STAND), which provides mini-grants, training and technical support to Idaho youth groups to engage in community awareness and policy improvement projects regarding tobacco; and adult facilitator training for Not-On-Tobacco (N-O-T), a smoking cessation program designed specifically for youth under the age of 18 years.

SECTION 3. There is hereby appropriated and, at the request of the State Treasurer, the State Controller shall transfer \$750,000 from the Idaho Millennium Income Fund to the Idaho Public Health Districts for the period July 1, 2015, through June 30, 2016. The purpose of this grant is to continue the Public Health District Millennium Fund cessation program. Through this program, high-quality, best practice tobacco cessation programs are provided statewide at no cost to Idahoans who want to quit smoking, with a primary emphasis on youth and pregnant women.

SECTION 4. There is hereby appropriated \$500,000 from the Idaho Millennium Income Fund to the State Treasurer for distribution to the Idaho Association of Counties for the period July 1, 2015, through June 30, 2016. The purpose of this grant is to establish Community Recovery Centers for Idahoans with behavioral health needs. These centers are to provide a

safe place for individuals to go and find peer support to address ongoing behavioral health needs.

SECTION 5. There is hereby appropriated \$130,900 from the Idaho Millennium Income Fund to the State Treasurer for distribution to the American Cancer Society, Cancer Action Network for the period July 1, 2015, through June 30, 2016. The purpose of this grant is to establish a women's health program that will perform outreach to underserved women and educate them about the connection between tobacco use and cancer, the need for cancer screenings, and cessation tools available.

SECTION 6. There is hereby appropriated \$50,000 from the Idaho Millennium Income Fund to the State Treasurer for distribution to the Idaho Youth Ranch for the period July 1, 2015, through June 30, 2016. The purpose of this grant is to support substance abuse and tobacco cessation/prevention programs at Anchor House a voluntary based residential treatment program in Coeur d'Alene that serves teenage males ages 13-18.

SECTION 7. There is hereby appropriated \$193,800 from the Idaho Millennium Income Fund to the State Treasurer for distribution to the Supportive Housing and Innovative Partnerships Inc. for the period July 1, 2015, through June 30, 2016. The purpose of this grant is to promote prescription drug safety through a trademarked but free mobile application titled "The Amazing Adventures of Pharmacist Phil." The application provides medical professionals, teachers and counselors with an easy way to start the discussion about prescription drug safety.

SECTION 8. There is hereby appropriated \$193,400 from the Idaho Millennium Income Fund to the State Treasurer for distribution to the Idaho Drug Free Youth for the period July 1, 2015, through June 30, 2016. The purpose of this grant is to continue a multifaceted parent and teen prevention education program called "i2i" to educate Idaho parents, together with their teens, about alcohol and other drugs and the damage that substances can do to the underdeveloped teen brain.

SECTION 9. There is hereby appropriated \$77,500 from the Idaho Millennium Income Fund to the State Treasurer for distribution to the Foundation for the Idaho Conference on Alcohol and Drug Dependency Inc. for the period July 1, 2015, through June 30, 2016. The purpose of this grant is to provide scholarships to attendees. The conference provides education and training for substance abuse and dependence professionals and educators in behavioral health care, criminal justice and recovery support.

SECTION 10. There is hereby appropriated \$39,900 from the Idaho Millennium Income Fund to the State Treasurer for distribution to the Community Coalitions of Idaho for the period July 1, 2015, through June 30, 2016. The purpose of this grant is to assist Idaho communities with the establishment of community supported coalitions that aim to prevent and reduce substance abuse in the community.

SECTION 11. There is hereby appropriated \$142,300 from the Idaho Millennium Income Fund to the State Treasurer for distribution to the Boys & Girls Club of Idaho for the period July 1, 2015, through June 30, 2016. The purpose of this grant is for the Teen Empowerment Project, which is a comprehensive approach to reduce the likelihood of current or future abuse of alcohol, tobacco and other drugs by at-risk youth, ages 11-18, served by the Boys & Girls Clubs in Idaho.

SECTION 12. There is hereby appropriated \$343,700 from the Idaho Millennium Income Fund to the State Treasurer for distribution to the Idaho Meth Project for the period July 1, 2015, through June 30, 2016. The purpose of this grant is to continue the "Not Even Once" campaign to discourage the use of methamphetamine and to continue with a prescription drug educational component. The request would be used for continued aggressive teen outreach through digital media, school presentations and community engagement activities.

SECTION 13. There is hereby appropriated and, at the request of the State Treasurer, the State Controller shall transfer \$94,000 from the Idaho Millennium Income Fund to the Idaho State Police for tobacco permittee compliance inspections to be expended for the period July 1, 2015, through June 30, 2016. The purpose of this grant is to assist the Idaho State Police and the Department of Health and Welfare with the cost of tobacco permittee compliance inspections as required by law.

SECTION 14. There is hereby appropriated and, at the request of the State Treasurer, the State Controller shall transfer \$1,055,000 from the Idaho Millennium Income Fund to the Idaho Department of Juvenile Corrections for the Youth Prevention and Cessation programs for the period July 1, 2015, through June 30, 2016. The purpose of this grant is to support programs that prevent and reduce the use of tobacco and other substances by youth.

SECTION 15. There is hereby appropriated and, at the request of the State Treasurer, the State Controller shall transfer \$2,706,700 from the Idaho Millennium Income Fund to the Idaho Department of Health and Welfare for the Physical Health Services Program for the period July 1, 2015, through June 30, 2016. The purpose of this grant is to provide free nicotine replacement therapy medication (nicotine patches, gum and lozenges), web-based cessation services and telephonic cessation counseling services to assist people in quitting tobacco use. These funds will help residents who are attempting to quit tobacco use and who cannot afford to pay for these services and medications on their own. This funding will also be used to promote the services through television, radio and print. It will help reduce the burden tobacco use places on taxpayers and reduce tobacco-related illnesses and deaths. The grant will also be used for a counter-marketing program that includes social media, grassroots marketing and other activities such as sponsorships and community outreach.

SECTION 16. There is hereby appropriated and, at the request of the State Treasurer, the State Controller shall transfer \$1,859,200 from the Idaho Millennium Income Fund to the Idaho Department of Correction for the Community-Based Substance Abuse Treatment Services Program for the period July 1, 2015, through June 30, 2016. The purpose of this grant is to continue coordination, assessment and community-based substance abuse treatment and recovery support services for felony offenders in lieu of incarceration in a state facility.

SECTION 17. There is hereby appropriated and, at the request of the State Treasurer, the State Controller shall transfer \$116,200 from the Idaho Millennium Income Fund to Boise State University's Institute for the Study of Addiction for the period July 1, 2015, through June 30, 2016. The purpose of this grant is to provide free substance abuse prevention and addiction treatment resources to Idahoans. The grant will be used to support salaries, travel and to purchase print and video resources. The print and video resources purchased for dissemination or loan will be tracked by these categories: tobacco prevention and cessation, underage drinking prevention and general drug abuse prevention and addiction treatment.

SECTION 18. There is hereby appropriated and the State Controller shall transfer \$2,053,600 from the Idaho Millennium Income Fund to the Idaho Millennium Permanent Endowment Fund, on July 1, 2015, or as soon thereafter as practicable, for the period July 1, 2015, through June 30, 2016.

SECTION 19. Notwithstanding any other provision of law to the contrary, on June 30, 2016, or as soon thereafter as is practicable, any remaining unexpended and unencumbered balance of moneys appropriated in Sections 3, 13, 14, 15, 16, and 17 of this act shall be reverted to the Idaho Millennium Income Fund.

SECTION 20. Notwithstanding any other provision of law to the contrary, on June 30, 2016, or as soon thereafter as is practicable, the State Controller, at the request of the State Treasurer, shall transfer any remaining unexpended and unencumbered balance of moneys in the Idaho Millennium Income Fund to the Idaho Millennium Permanent Endowment Fund.

Approved March 30, 2015

CHAPTER 174  
(S.B. No. 1145)

AN ACT

APPROPRIATING MONEYS TO THE PUBLIC DEFENSE COMMISSION FOR FISCAL YEAR 2016;  
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 Public Defense Commission from the General Fund, the following amounts to be expended for the designated expense classes, for the period July 1, 2015, through June 30, 2016:

FOR:

Personnel Costs	\$124,100
Operating Expenditures	70,200
Trustee and Benefit Payments	<u>110,000</u>
TOTAL	\$304,300

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Public Defense Commission is authorized no more than one and five-tenths (1.5) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 30, 2015

CHAPTER 175  
(H.B. No. 132)

AN ACT

RELATING TO MOTOR FUELS; AMENDING SECTION 63-2402, IDAHO CODE, TO REMOVE REFERENCE TO SPECIAL FUELS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-2424, IDAHO CODE, TO REMOVE CERTAIN FEES AND TO REVISE THE TAX ON GASEOUS SPECIAL FUELS; AND AMENDING SECTION 63-2423, IDAHO CODE, TO REPEAL AN EXEMPTION FROM THE GASEOUS SPECIAL FUELS TAX.

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

SECTION 1. That Section 63-2402, Idaho Code, be, and the same is hereby amended to read as follows:

63-2402. IMPOSITION OF TAX UPON MOTOR FUEL. (1) A tax is hereby imposed upon the distributor who receives motor fuel in this state. The legal incidence of the tax imposed under this section is borne by the distributor. The tax becomes due and payable upon receipt of the motor fuel in this state by the distributor unless such tax liability has previously accrued to another distributor pursuant to this section. The tax shall be imposed without regard to whether use is on a governmental basis or otherwise, unless exempted by this chapter.

(2) The tax imposed in this section shall be at the rate of twenty-five cents (25¢) per gallon of motor fuel received. This tax shall be subject to the exemptions, deductions and refunds set forth in this chapter.

(3) Nothing in this chapter shall prohibit the distributor who is liable for payment of the tax imposed under subsection (1) of this section from including as part of the selling price an amount equal to such tax on motor fuels sold or delivered by such distributor; provided however, that nothing in this chapter shall be deemed to impose tax liability on any person to whom such fuel is sold or delivered except as provided in subsection (6) of this section.

(4) Any person coming into this state in a motor vehicle may transport in the manufacturer's original tank of that vehicle, for his own use only, not more than thirty (30) gallons of motor fuel for the purpose of operating that motor vehicle, without complying with the provisions of this chapter.

(5) The tax imposed in this section does not apply to:

(a) Special fuels that have been dyed at a refinery or terminal under the provisions of 26 U.S.C. section 4082 and regulations adopted thereunder, or under the clean air act and regulations adopted thereunder except as provided in section 63-2425, Idaho Code; or

(b) ~~Special fuel dispensed into a motor vehicle which uses gaseous special fuels and which displays a valid gaseous special fuels permit under section 63-2424, Idaho Code; or~~

~~(c)~~ Special fuels that are gaseous special fuels, as defined in section 63-2401, Idaho Code, except that part thereof that is delivered into the fuel supply tank or tanks of a motor vehicle; or

(d) Aircraft engine fuel subject to tax under section 63-2408, Idaho Code.

(6) Should the distributor of first receipt be exempt from imposition of the tax as a matter of federal law, by virtue of its status as a ~~federally-recognized~~ federally recognized Indian tribe or member of such tribe, such distributor shall not bear the tax's legal incidence and must pass the tax through as part of the selling price of the fuel. Such distributor shall retain the administrative obligation to remit the tax, and such obligation shall accrue upon receipt in accordance with subsection (1) of this section. Should a retailer otherwise subject to the tax be exempt from

imposition of the tax as a matter of federal law, by virtue of its status as a ~~federally-recognized~~ federally recognized Indian tribe or member of such tribe, the retailer shall not bear the tax's legal incidence and must pass the tax through as part of the selling price of the fuel to the consumer, unless such consumer is exempt from imposition of the tax as a matter of federal law, by virtue of its status as a ~~federally-recognized~~ federally recognized Indian tribe or membership in such tribe, and the retailer shall be entitled to claim a credit against taxes otherwise due and owing under this chapter or a tax refund, together with interest, attributable to the fuel purchased by such consumer.

SECTION 2. That Section 63-2424, Idaho Code, be, and the same is hereby amended to read as follows:

63-2424. GASEOUS SPECIAL FUELS. (1) In the case of gaseous special fuels, ~~which are in a gaseous form,~~ the commission shall provide by rule the method to be used for converting the measurement of the fuel to the equivalent of gallons for the purpose of applying tax rates. The method provided shall cause the tax rate provided in section 63-2402, Idaho Code, to apply to an amount of gaseous special fuels having energy equal to one (1) gallon of gasoline.

(2) ~~As an alternative to the provisions of subsection (1) of this section, an annual fee in lieu of the excise tax may be collected on a vehicle powered by gaseous fuels. The rate of the fee shall be based on the following schedule for all types of gaseous fuels as adjusted by the formula for proration set out below. The permits shall be sold by the state tax commission and gaseous fuels distributors dispensing gaseous fuels into motor vehicles.~~

<del>VEHICLE TONNAGE (GVW)</del>	<del>FEE</del>
<del>0 --- 8,000</del>	<del>\$ 60.00</del>
<del>8,001 -- 16,000</del>	<del>\$ 89.00</del>
<del>16,001 -- 26,000</del>	<del>\$179.00</del>
<del>26,001 and above</del>	<del>\$208.00</del>

~~Permits for vehicles which are converted to gaseous fuels after the first of July in any year shall have the fee prorated for the appropriate number of months until renewal. The commission shall provide by rule the method to be used for converting the measurement of fuel to the equivalent of gallons for the purpose of applying increases in tax rates after this law becomes effective. A decal issued by the commission shall be displayed in any vehicle for which a permit is issued hereunder as evidence that the annual fee has been paid in lieu of the fuel tax. This decal shall be displayed in a conspicuous place~~

The commission shall use the following measurement for natural gas:

(a) When determining the tax on liquefied natural gas, a "diesel gallon equivalent" is a quantity that weighs six and six hundredths (6.06) pounds; and

(b) When determining the tax on compressed natural gas, a "gasoline gallon equivalent" is one hundred twenty-six and sixty-seven hundredths (126.67) cubic feet of natural gas at sixty (60) degrees Fahrenheit and fourteen and seven-tenths (14.7) pounds per square inch absolute or a quantity of compressed natural gas that weighs five and sixty-six hundredths (5.66) pounds.

(3) As used in this chapter, "gaseous special fuels" means a motor fuel that is a gas at standard pressure and temperature (i.e., at sixty (60) degrees Fahrenheit and fourteen and seven-tenths (14.7) pounds per square inch absolute).

SECTION 3. That Section 63-2423, Idaho Code, be, and the same is hereby amended to read as follows:

63-2423. CREDITS AND REFUNDS TO CONSUMERS. (1) Any person who has paid his special fuels tax directly to the distributor from whom it was purchased shall be refunded the amount of:

(a) Except as provided in subsection (2) of this section, any special fuels tax paid on special fuels used for purposes other than operation or propulsion of motor vehicles upon the highways in the state of Idaho;

(b) Any tax paid on special fuels used in motor vehicles owned or leased and operated by an instrumentality of the federal government or of the state of Idaho, including the state and all of its political subdivisions;

~~(c) Any tax paid on gaseous special fuels placed into the main supply tank of a vehicle displaying a valid gaseous special fuels permit under section 63-2424, Idaho Code;~~

~~(d) Any special fuels tax paid on special fuels exported for use outside the state of Idaho. Special fuels carried from the state in the fuel tank of a motor vehicle will not be deemed to be exported from the state unless it is subject to a like or similar tax in the jurisdiction to which it is taken and that tax is actually paid to the other jurisdiction; and~~

~~(ed) Any tax, penalty or interest erroneously or illegally paid or collected.~~

(2) No refund of special fuels tax shall be paid on:

(a) Special fuels used in a recreational vehicle; or

(b) Special fuels used in noncommercial motor boats or in motor boats operated by a governmental entity; or

(c) Special fuels used while idling a registered motor vehicle, pursuant to the definition of "idling" as provided in section 63-2401, Idaho Code.

(3) Refunds authorized in this section shall be claimed in the same manner as applies to refunds of gasoline tax under section 63-2410, Idaho Code, and shall be subject to interest computed pursuant to subsection (5) of that section.

Law without signature.

CHAPTER 176  
(H.B. No. 143)

AN ACT

RELATING TO THE EMPLOYMENT SECURITY LAW; AMENDING SECTION 72-1316A, IDAHO CODE, TO PROVIDE AN ADDITIONAL CIRCUMSTANCE FOR EXEMPT EMPLOYMENT UNDER THE STATE'S EMPLOYMENT SECURITY LAW.

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

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

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

(1) By an individual in the employ of his spouse or child.

(2) By a person under the age of twenty-one (21) years in the employ of his father or mother.

(3) By an individual under the age of twenty-two (22) years who is enrolled as a student in a full-time program at an accredited nonprofit or pub-

lic education institution for which credit at such institution is earned in a program which combines academic instruction with work experience. This subsection shall not apply to service performed in a program established at the request of an employer or group of employers.

(4) In the employ of the United States government or an instrumentality of the United States exempt under the constitution of the United States from the contributions imposed by this chapter.

(5) In the employ of a governmental entity in the exercise of duties:

(a) As an elected official;

(b) As a member of a legislative body, or a member of the judiciary, of a state or political subdivision thereof;

(c) As a member of the state national guard or air national guard;

(d) As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency;

(e) In a position which, pursuant to the laws of this state, is designated as (i) a major nontenured policymaking or advisory position, or (ii) a policymaking or advisory position which ordinarily does not require more than eight (8) hours per week; or

(f) As an election official or election worker including, but not limited to, a poll worker, an election judge, an election clerk or any other member of an election board, if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than one thousand dollars (\$1,000).

(6) By an inmate of a correctional, custodial or penal institution, if such services are performed for or within such institution.

(7) In the employ of:

(a) A church or convention or association of churches; or

(b) An organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church, or convention or association of churches; or

(c) In the employ of an institution of higher education, if it is devoted primarily to preparation of a student for the ministry or training candidates to become members of a religious order; or

(d) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order.

(8) By a program participant in a facility that provides rehabilitation for individuals whose earning capacity is impaired by age, physical or mental limitation, or injury or provides remunerative work for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed into the labor market.

(9) As part of an unemployment work relief program or as part of an unemployment work training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training.

(10) Service with respect to which unemployment insurance is payable under an unemployment insurance system established by an act of congress other than the social security act.

(11) As a student nurse in the employ of a hospital or nurses' training school by an individual who is enrolled and is regularly attending courses in a nurses' training school approved pursuant to state law, and service performed as an intern in the employ of a hospital by an individual who has completed a course in a medical school approved pursuant to state law.



(12) By an individual under the age of eighteen (18) years in the delivery or distribution of newspapers or shopping news not including delivery or distribution to any point for subsequent delivery or distribution.

(13) By an individual for a person as an insurance agent or as an insurance solicitor, if all such service performed by such individual for such person is performed for remuneration solely by way of commission.

(14) By an individual for a real estate broker as an associate real estate broker or as a real estate salesman, if all such service performed by such individual for such person is performed for remuneration solely by way of commission.

(15) Service covered by an election approved by the agency charged with the administration of any other state or federal unemployment insurance law, in accordance with an arrangement pursuant to section 72-1344, Idaho Code.

(16) In the employ of a school or college by a student who is enrolled and regularly attending classes at such school or college.

(17) In the employ of a hospital by a resident patient of such hospital.

(18) By a member of an AmeriCorps program.

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

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

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

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

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

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

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

(21) By a person who operates a motor vehicle that: (a) such person owns or holds pursuant to a bona fide lease; and (b) is leased to a motor carrier as defined in 49 U.S.C. section 13102, pursuant to a written contract, and in no event will the motor carrier be determined to be the covered employer of such person or the covered employer of an employee of such person.

Approved March 30, 2015

CHAPTER 177  
(H.B. No. 104)

AN ACT

RELATING TO DEBRIS; AMENDING SECTION 18-3906, IDAHO CODE, TO REVISE THE PENALTY FOR PLACING DEBRIS ON A HIGHWAY AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 18-7031, IDAHO CODE, TO REVISE THE PENALTY FOR PLACING DEBRIS ON PUBLIC OR PRIVATE PROPERTY.

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

SECTION 1. That Section 18-3906, Idaho Code, be, and the same is hereby amended to read as follows:

18-3906. PLACING DEBRIS ON HIGHWAYS. (1) If It shall constitute an infraction for any person shall wilfully or negligently to throw from any vehicle, place, deposit or permit to be deposited upon or alongside of any highway, street, alley or easement used by the public for public travel, any debris, paper, litter, glass bottles, glass, nails, tacks, hooks, hoops, cans, barbed wire, boards, trash or garbage, lighted material, or other waste substance, such persons shall, upon conviction thereof, be punished and is punishable by a fine not exceeding three of one hundred fifty dollars (\$30150) or by imprisonment in the county jail not exceeding ten (10) days. A second conviction under this section within two (2) years of the commission of the prior offense for which the person was convicted shall constitute an infraction and be punishable by a fine not exceeding three hundred dollars (\$300). A third conviction under this section within three (3) years of the first offense for which the person was convicted shall constitute a misdemeanor and be punishable by a fine not exceeding one thousand dollars (\$1,000) and by imprisonment in the county jail not exceeding thirty (30) days. For the purposes of this section, the terms "highway," "street," "alley" or "easement" shall be construed to include the entire right-of-way of such highway, street, alley or easement. The Idaho transportation department is directed to post along state highways, at convenient and appropriate places, notices of the context of said law.

(2) Notwithstanding the provisions of section 19-4705, Idaho Code, the court may order that fifty dollars (\$50.00) of the fine imposed under the provisions of this section be paid by the defendant to the person or persons, other than the officer making the arrest, who, in the judgment of the court, provided information that led directly to the arrest and conviction of the defendant.

SECTION 2. That Section 18-7031, Idaho Code, be, and the same is hereby amended to read as follows:

18-7031. PLACING DEBRIS ON PUBLIC OR PRIVATE PROPERTY A MISDEMEANOR. It shall constitute an misdemeanor infraction for any person, natural or artificial, to deposit upon any public or private property within this state any debris, paper, litter, glass bottles, glass, nails, tacks, hooks, hoops, cans, barbed wire, boards, trash, garbage, lighted material or other waste substances on any place not authorized by any county, city, village or the owner of such property, and is punishable by imprisonment in a county jail not exceeding six (6) months, or by a fine not exceeding of one thousand hundred fifty dollars (\$1,00050), or both. A second conviction under this section within two (2) years of the commission of the prior offense for which the person was convicted shall constitute an infraction and be punishable by a fine not exceeding three hundred dollars (\$300). A third conviction under this section within three (3) years of the first

offense for which the person was convicted shall constitute a misdemeanor and be punishable by a fine not exceeding one thousand dollars (\$1,000) and by imprisonment in the county jail not exceeding thirty (30) days. Additionally, a peace officer or state fish and game personnel supervised public service of not less than eight (8) hours and not more than forty (40) hours may be imposed to clean up and to properly dispose of debris from public property, or from private property with the written consent of the private property owner, as ordered by the court.

Approved March 30, 2015

CHAPTER 178  
(H.B. No. 116)

AN ACT

RELATING TO THE BUREAU OF OCCUPATIONAL LICENSES; AMENDING SECTION 67-2602, IDAHO CODE, TO REVISE THE LIST OF AGENCIES TO WHICH THE BUREAU PROVIDES SERVICES AND TO PROVIDE THAT SUCH AGENCIES MAY ASSESS COSTS, FEES AND ATTORNEY'S FEES INCURRED IN INVESTIGATIONS AND PROSECUTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-2602, Idaho Code, be, and the same is hereby amended to read as follows:

67-2602. BUREAU OF OCCUPATIONAL LICENSES. (1) The bureau of occupational licenses created in the department of self-governing agencies by section 67-2601, Idaho Code, shall be empowered, by written agreement between the bureau and each agency for which it provides administrative or other services as provided by law, to provide such services for the board of acupuncture, board of architectural examiners, athletic commission, board of barber examiners, certified shorthand reporters board, board of chiropractic physicians, Idaho contractors board, board of cosmetology, licensing board of professional counselors ~~licensing board~~ and marriage and family therapists, state board of dentistry, drinking water and wastewater professionals, state driving businesses licensure board, Idaho board of massage therapy, Idaho board of registration for professional geologists, speech and hearing services licensure board, physical therapy licensure board, board of landscape architects, liquefied petroleum gas safety board, board of morticians, board of naturopathic medical examiners, board of examiners of nursing home administrators, occupational therapy licensure board, board of optometry, board of ~~pediatrists~~ podiatry, board of psychologist examiners, real estate appraiser board, board of examiners of residential care facility administrators, board of social work examiners, board of midwifery and such other professional and occupational licensing boards or commodity commissions as may request such services. The bureau may charge a reasonable fee for such services provided any agency not otherwise provided for by law and shall maintain proper accounting methods for all funds under its jurisdiction.

(2) Notwithstanding the statutes governing specific boards, for any board that contracts with the bureau of occupational licenses, each board member shall hold office until a successor has been duly appointed and qualified.

(3) The department of self-governing agencies, by and through the bureau of occupational licenses, shall be empowered to provide administrative or other services for the administration of chapter 48, title 54, Idaho Code, to issue, suspend, revoke or refuse to renew licenses and certificates, to

issue subpoenas, to prescribe and impose fees and to assess administrative penalties pursuant to the provisions of chapter 48, title 54, Idaho Code.

(4) Agencies that contract with the bureau of occupational licenses for administrative services may assess and the bureau may collect costs, fees and attorney's fees reasonably incurred in the investigation and prosecution of a licensee or registrant who is found to have violated the laws or rules of the agency.

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 30, 2015

CHAPTER 179  
(H.B. No. 117)

AN ACT

RELATING TO OCCUPATIONAL LICENSES; REPEALING SECTION 67-2614, IDAHO CODE, RELATING TO RENEWAL AND REINSTATEMENT OF LICENSES; AND AMENDING CHAPTER 26, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2614, IDAHO CODE, TO PROVIDE THAT CERTAIN LICENSES OR REGISTRATIONS BE SUBJECT TO ANNUAL RENEWAL AND TO SPECIFY RENEWAL AND REINSTATEMENT REQUIREMENTS.

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

SECTION 1. That Section 67-2614, Idaho Code, be, and the same is hereby repealed.

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 67-2614, Idaho Code, and to read as follows:

67-2614. **RENEWAL OR REINSTATEMENT OF LICENSES.** All licenses or registrations issued by the boards served by the bureau of occupational licenses as a prerequisite to engaging in a trade, occupation or profession shall be subject to annual renewal and shall expire and be canceled unless renewed prior to expiration as provided by this section. The required fee for annual renewals shall be the amount set forth in the laws and rules of the governing board. As used in this section, the term "person," unless otherwise indicated, shall mean a natural person or an entity applying for licensure or registration pursuant to the laws or rules of a board served by the bureau.

(1) All natural persons required to procure a license or registration must annually renew the same on or before the birthday of the holder of the license or registration in the manner prescribed in subsection (3) of this section. However, the first renewal of the license or registration shall not be required until twelve (12) months after the holder's next birthday following the initial licensure or registration.

(2) All persons required to procure a license or registration for an entity or a facility as a prerequisite for operating a business or place of business in which a trade, occupation or profession is practiced must annually renew the same on or before the anniversary of the original issue date of the license or registration in the manner prescribed in subsection (3) of this section.

(3) Licenses or registrations may be renewed up to six (6) weeks prior to the expiration date.

(a) Submission of an approved and completed paper or electronic renewal application prior to expiration is the responsibility of each licensee or registrant. Failure to receive a renewal application or notice shall not excuse failure to comply with renewal requirements.

(b) The renewal application shall be submitted to the bureau along with the required renewal fee and confirmation of compliance with renewal requirements of the relevant board including, but not limited to, insurance, completion of any continuing education and payment of all fines, costs, fees, including attorney's fees, or other amounts that are due and owing to the board or in compliance with a payment arrangement with the board.

(4) Whenever a change of the licensee's or registrant's address of record occurs, the licensee or registrant must immediately notify the bureau in writing of the change. The bureau will use the most recent mailing address it has on file for purposes of all written communication with a licensee or registrant. It is the responsibility of each licensee and registrant to keep the bureau informed of a current mailing address and any other contact information.

(5) Fees for renewal and reinstatement cannot be waived or refunded unless otherwise provided by board law or rule.

(6) If a license or registration is not renewed on or before the expiration date, it shall be immediately canceled by the bureau following the date of expiration. Within five (5) years of the date of expiration, the bureau may reinstate a license or registration canceled for failure to renew upon receiving documentation of compliance with requirements for timely renewal as set forth in subsection (3) (b) of this section and any other reinstatement requirements of the board plus payment of a reinstatement fee of thirty-five dollars (\$35.00) or other amount as provided by board law or rule.

(7) (a) When a license or registration has been canceled for a period of more than five (5) years, the person so affected shall be required to make application for a new license or registration to the bureau. The application shall consist of the following:

(i) All forms and information required of an applicant for a new license or registration; and

(ii) The fee currently required of an applicant for a new license or registration.

(b) In addition to the application, the person shall provide:

(i) All moneys due and owing to the board, or proof that the person is in compliance with a payment arrangement made with the board; and

(ii) Information required by the board that demonstrates the person is of good moral character.

(c) The person shall fulfill certain requirements as determined by the board that demonstrate the person's competency to resume practice in this state. Such requirements may include, but are not limited to, education, supervised practice and examination. The board may consider the person's practice in another jurisdiction in determining the person's competency.

(d) Persons who fulfill the conditions and requirements of this subsection shall be issued a new license or registration.

CHAPTER 180  
(H.B. No. 129)

AN ACT

RELATING TO ALL-TERRAIN VEHICLES, UTILITY TYPE VEHICLES, SPECIALTY OFF-HIGHWAY VEHICLES AND MOTORBIKES; AMENDING SECTION 49-426, IDAHO CODE, TO PROVIDE AN EXCEPTION TO A PROHIBITION OF OPERATION OF CERTAIN VEHICLES AND MOTORBIKES ON CONTROLLED ACCESS HIGHWAYS, TO PROVIDE THAT THE IDAHO TRANSPORTATION BOARD MAY DESIGNATE SECTIONS OF STATE HIGHWAYS OVER WHICH SPECIFIED VEHICLES AND MOTORBIKES MAY TRAVEL, TO PROVIDE THAT SPECIFIED VEHICLES AND MOTORBIKES MAY TRAVEL UPON AND CROSS CERTAIN PORTIONS OF NON-FULL ACCESS-CONTROLLED STATE HIGHWAYS UNLESS CLOSED AND TO PROVIDE FOR THE APPLICABILITY OF SPECIFIED LAW.

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 numbered 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 numbered pursuant to section 67-7122, Idaho Code. The oper-

ation of licensed and numbered all-terrain vehicles, utility type vehicles and motorbikes and those vehicles exempt from licensing and numbering pursuant to subsection (2) of this section shall not be permitted on controlled access highways, except as provided in subsection (4) of this section. 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 travel upon and cross. All-terrain vehicles, utility type vehicles, specialty off-highway vehicles and motorbikes shall be permitted to travel upon and cross that portion of any non-full access-controlled state highway with a speed limit less than forty-five (45) miles per hour lying within the boundaries of a municipality unless closed as provided in subsection (3) of this section. 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~~ or traveling upon 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 numbering requirements of section 67-7122, Idaho Code, are met.

Approved March 30, 2015

#### CHAPTER 181

(H.B. No. 137, As Amended)

#### AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1303, IDAHO CODE, TO PROVIDE THAT CERTAIN DEPUTY SHERIFFS AND CITY POLICE OFFICERS WHO ACT IN A SUPERVISORY CAPACITY SHALL NOT LOSE THEIR POLICE OFFICER STATUS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 59-1303, Idaho Code, be, and the same is hereby amended to read as follows:

59-1303. ADDITIONAL DEFINITIONS FOR POLICE OFFICER STATUS. (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) Police officer membership status for retirement purposes may be fixed only by law, or by order of the retirement board.

(3) Members holding or filling the following positions or offices are designated by law as police officer members for retirement purposes during the time of their appointment to that position or during their term of office:

- (a) (i) The director and deputy director of the Idaho state police.
- (ii) Commissioned personnel of the Idaho state police holding positions which involve active law enforcement services, for which current POST certification is required to continue in employment

in the position, POST training coordinators, and Idaho state police training coordinators.

(iii) Brand inspectors and brand inspector supervisors.

(iv) Employees of the Idaho state police serving in positions of personnel management, accounting, data processing, clerical services and in like general classifications found in departments throughout state government and not within the scope of active law enforcement service are not eligible for police officer member status.

- (b) (i) County sheriffs;
- (ii) Deputy county sheriffs holding positions for which current POST certification is necessary to continue in employment in the position, and the principal duties of which are active law enforcement service, accountability for the safety and safekeeping of persons confined in a county confinement facility, or active participation in county law enforcement activities pertaining to crime prevention or reduction. Deputy sheriffs, even though POST certified or required to be POST certified, holding positions whose principal full-time duties are those of a telephone operator, dispatcher, clerk, stenographer, animal control officer, records specialist, or duties not within the scope of active law enforcement service are not eligible for police officer member status. Deputy sheriffs that hold a current peace officer or detention officer certificate from the POST council that are promoted or hired to act in a supervisory capacity within a sheriff's office, that are not disqualified through disability from acting as peace officers or detention officers when called upon, shall not lose their police officer status as defined in this section.
- (c) (i) City police chiefs;
- (ii) City police officers holding positions for which current POST certification is necessary to continue in employment in the position, and the principal duties of which are active law enforcement service or active participation in city law enforcement activities pertaining to crime prevention or reduction. Police officers, even though POST certified or required to be POST certified, holding positions whose principal full-time duties are those of a telephone operator, dispatcher, clerk, stenographer, animal control officer, records specialist, or duties not within the scope of active law enforcement service are not eligible for police officer member status. City police officers that hold a current peace officer or detention officer certificate from the POST council that are promoted or hired to act in a supervisory capacity within a city police department, that are not disqualified through disability from acting as peace officers or detention officers when called upon, shall not lose their police officer status as defined in this section.
- (d) Employees of the department of fish and game serving in a conservation officer position for which current POST certification is necessary to continue in employment in that position and which position has as its primary accountability the enforcement of wildlife protection laws and regulations.
- (e) (i) The director of the department of correction, the deputy director for probation and parole, and wardens of institutions;
- (ii) Employees of the department of correction accountable for the custody, safety, safekeeping or supervision of persons confined in a department confinement facility and whose work station is located within the confinement facility;
- (iii) Probation and parole supervisors, probation and parole investigators, and probation and parole officers;



- (iv) Correctional peace officer training instructors;
  - (v) Employees of the department of correction serving in positions of personnel management, accounting, data processing, clerical services and in like general classifications found in departments throughout state government and not within the scope of active law enforcement service are not eligible for police officer member status.
  - (f) Employees of the adjutant general and military division of the state where military membership is a condition of employment.
  - (g) Magistrates of the district court; justices of the supreme court, judges of the court of appeals, and district judges who have made an election under section 1-2011, Idaho Code; and court employees designated by court order to have primary responsibility for court security or transportation of prisoners.
  - (h) Employees whose primary function requires that they are certified by the Idaho department of health and welfare as an emergency medical technician-basic, an advanced emergency medical technician-ambulance, an emergency medical technician-intermediate, or an emergency medical technician-paramedic.
  - (i) Criminal investigators of the attorney general's office, and criminal investigators of a prosecuting attorney's office.
  - (j) The director of security and the criminal investigators of the Idaho state lottery.
- (4) A member may be designated by the retirement board as a police officer member for retirement purposes if the position held is one in which the principal duties involve hazardous law enforcement duties.
- (a) For purposes of this section, "hazardous law enforcement duties" means principal duties which:
    - (i) Will reasonably expect to increase the probability of early superannuation;
    - (ii) Are associated with life-threatening risk or present a position of peril either to the member or to others, or which can place the public safety in jeopardy; and
    - (iii) Either compel others to observe the law, pertain to crime prevention, or pertain to crime reduction, including police, courts, prosecution, correction, or rehabilitation.
  - (b) If continued employment in a position is conditioned on maintaining current POST certification, such condition shall be evidence to be considered that the employee is a police officer member for retirement purposes.
    - ~~(i)~~ After July 1, 1999, a requirement for POST certification for classified state employees may be made only by the administrator of the division of human resources pursuant to chapter 53, title 67, Idaho Code.
  - (c) Occasional assignments to hazardous law enforcement duties do not create a condition for designation as a police officer member for retirement purposes.
- (5) Any employer or agency that believes that any employee, not specifically designated as a police officer by law, is incorrectly classified as a nonpolice officer member, may petition the retirement board for inclusion of that employee's position as one to be filled by a police officer member for retirement purposes. The petition shall be in writing and shall explain in detail the principal duties of the position and include written evidence which establishes that the criteria of subsection (4) are met. The board shall review the petition and evidence, together with such information and evidence as may be presented by the staff of the retirement system. The board may decide the matter based upon the information supplied, may request additional information, or may request an oral presentation before the board.

The decision of the board shall be final, but a similar petition may be resubmitted after six (6) months.

(6) On and after July 1, 1985, no active member shall be classified as a police officer for retirement purposes unless the employer shall have certified to the board, on a form provided by the board, that such member is an employee whose primary position with the employer is one designated as such within the meaning of this chapter, and the board shall have accepted such certification. Acceptance by the board of an employer's certification shall in no way limit the board's right to review and reclassify the position for retirement purposes based upon an audit or other relevant information presented to the board.

(7) An active member classified as a police officer for retirement purposes whose position is reclassified to that of a general member for retirement purposes as a result of a determination that the position does not meet the requirements of this chapter for police officer status for retirement purposes shall become a general member but shall not lose retirement benefits earned and accrued prior to the reclassification. If that member continues to be employed in that same position until retired, that member then will be deemed to be a police officer member for the purposes of retirement eligibility.

Approved March 30, 2015

CHAPTER 182  
(H.B. No. 158)

AN ACT

RELATING TO BAIL; AMENDING SECTION 19-2903, IDAHO CODE, TO PROVIDE FOR HOW BAIL ON A BENCH WARRANT SHALL BE DETERMINED WHEN A DEFENDANT FAILS TO APPEAR BEFORE THE COURT; AMENDING SECTION 19-2915, IDAHO CODE, TO PROVIDE FOR THE SETTING OF BAIL WHEN A DEFENDANT FAILS TO APPEAR BEFORE THE COURT UNDER CERTAIN CONDITIONS.

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

SECTION 1. That Section 19-2903, Idaho Code, be, and the same is hereby amended to read as follows:

19-2903. RIGHT TO BAIL -- LIMITATIONS. Any person charged with a crime who is not released on his own recognizance is entitled to bail, as a matter of right, before a plea or verdict of guilty, except when the offense charged is punishable by death and the proof is evident or the presumption is great. The setting of bail on a bench warrant following a failure by a defendant to appear before the court as ordered and without sufficient excuse shall be determined under the provisions of section 19-2915, Idaho Code. In the discretion of the court, bail may be allowed in the following cases:

(1) After the defendant is found guilty or pleads guilty and before sentencing;

(2) While an appeal is pending from a judgment of conviction, an order withholding judgment or an order imposing sentence, except that a court shall not allow bail when the defendant has been sentenced to death or life imprisonment;

(3) Upon a charge of a violation of the terms of probation; and

(4) Upon a finding of a violation of the conditions of release pursuant to section 19-2919, Idaho Code.

SECTION 2. That Section 19-2915, Idaho Code, be, and the same is hereby amended to read as follows:

19-2915. FORFEITURE OF BAIL. (1) If without sufficient excuse the defendant fails to appear before the court as ordered, the court shall immediately:

- (a) Enter the defendant's failure to appear in the minutes;
- (b) Order forfeiture of the bail; and
- (c) Issue a bench warrant for the arrest of the defendant.

(2) The court, in its discretion, may:

- (a) Set the amount of bail in the bench warrant;
- (b) Set the amount of bail in the bench warrant but require that the defendant appear before the court where the charge or charges are pending before being released on bail; or
- (c) Set no bail on the bench warrant and require that the defendant not be released until appearing before the court where the charges are pending, at which time the court shall set bail or release the defendant on the defendant's own recognizance, and shall set any conditions of release.

(3) The clerk shall provide the person posting bail written notice of the order of forfeiture by mailing notice within five (5) business days of the order of forfeiture to the last known address of the person posting bail or that person's designated agent.

(34) If the court quashes the bench warrant within one hundred eighty (180) days after the order of forfeiture, the forfeiture of bail shall be set aside and the court shall notify the person posting bail of the setting aside of the forfeiture within five (5) business days of the date of the order quashing the bench warrant and reinstating the bail.

Approved March 30, 2015

CHAPTER 183  
(H.B. No. 160)

AN ACT

RELATING TO DEBRIS; AMENDING SECTION 18-3906, IDAHO CODE, AS AMENDED IN SECTION 1 OF HOUSE BILL NO. 104, AS ENACTED BY THE FIRST REGULAR SESSION OF THE SIXTY-THIRD IDAHO LEGISLATURE, TO PROVIDE THAT WILLFULLY PLACING DEBRIS ON A HIGHWAY UNDER CERTAIN CONDITIONS SHALL BE A MISDEMEANOR AND TO PROVIDE A PENALTY.

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

SECTION 1. That Section 18-3906, Idaho Code, as amended in Section 1 of House Bill No. 104, as enacted by the First Regular Session of the Sixty-third Idaho Legislature, be, and the same is hereby amended to read as follows:

18-3906. PLACING DEBRIS ON HIGHWAYS. (1) It shall constitute an infraction for any person to throw from any vehicle, place, deposit or permit to be deposited upon or alongside of any highway, street, alley or easement used by the public for public travel, any debris, paper, litter, glass bottles, glass, nails, tacks, hooks, hoops, cans, barbed wire, boards, trash or garbage, lighted material, or other waste substance, and is punishable by a fine of one hundred fifty dollars (\$150). A second conviction under this section within two (2) years of the commission of the prior offense for which the person was convicted shall constitute an infraction and be punishable by a fine not exceeding three hundred dollars (\$300). A third conviction under this section within three (3) years of the first offense for which the person was convicted shall constitute a misdemeanor and be punishable by a fine not exceeding one thousand dollars (\$1,000) and by imprisonment in the county

jail not exceeding thirty (30) days. For the purposes of this section, the terms "highway," "street," "alley" or "easement" shall be construed to include the entire right-of-way of such highway, street, alley or easement. The Idaho transportation department is directed to post along state highways, at convenient and appropriate places, notices of the context of said law.

(2) Notwithstanding the provisions of section 19-4705, Idaho Code, the court may order that fifty dollars (\$50.00) of the fine imposed under the provisions of this section be paid by the defendant to the person or persons, other than the officer making the arrest, who, in the judgment of the court, provided information that led directly to the arrest and conviction of the defendant.

(3) It shall constitute a misdemeanor for any person to willfully throw, deposit, or place, or to lose and willfully leave upon or alongside of any highway or street used by the public for public travel, any debris, substance, object or material that impedes traffic or creates a hazardous driving condition, and is punishable by a fine not exceeding two thousand five hundred dollars (\$2,500) or by imprisonment in the county jail not exceeding six (6) months, or by both.

Approved March 30, 2015

CHAPTER 184  
(H.B. No. 163)

AN ACT

RELATING TO THE IDAHO CRIMINAL JUSTICE SYSTEM; AMENDING SECTION 21, CHAPTER 150, LAWS OF 2014, TO REVISE EFFECTIVE DATES; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 21, Chapter 150, Laws of 2014, be, and the same is hereby amended to read as follows:

SECTION 21. The provisions of this act shall be in full force and effect on and after July 1, 2014, except that the provisions of Sections ~~4, 6, 9, 14, 15, and 16 and 17~~ of this act shall be in full force and effect on and after March 1, 2015, the provisions of Sections 4, 15 and 17 shall be in full force and effect on and after October 1, 2015, and the provisions of Section 20 of this act shall be in full force and effect on and after January 1, 2016.

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 March 1, 2015.

Approved March 30, 2015

CHAPTER 185  
(H.B. No. 240)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR MEDICAID FOR FISCAL YEAR 2016; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING FOR GENERAL FUND TRANSFERS TO THE COOPERATIVE WELFARE FUND; DIRECTING EXPENDITURES FOR TRUSTEE AND BENEFIT PAYMENTS; PROVIDING LEGISLATIVE INTENT FOR PROGRAM INTEGRITY; REQUIRING MONTHLY MEDICAID TRACKING REPORTS; PROVIDING FOR TRANSFER OF APPROPRIATIONS BETWEEN CERTAIN PROGRAMS; REQUIRING BIENNIAL REPORTS ON MEDICAID MANAGED CARE IMPLEMENTATION; AND REQUIRING A REPORT ON FLEXIBLE RECEIPT AUTHORITY.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>I. MEDICAID ADMINISTRATION AND MEDICAL MGMT:</b>				
FROM:				
Cooperative Welfare (General)				
Fund	\$5,671,000	\$7,356,600	\$469,200	\$13,496,800
Idaho Health Insurance Access Card				
Fund		152,000		152,000
Cooperative Welfare (Dedicated)				
Fund		8,883,800		8,883,800
Cooperative Welfare (Federal)				
Fund	<u>9,122,100</u>	<u>36,234,000</u>	<u>1,638,600</u>	<u>46,994,700</u>
TOTAL	\$14,793,100	\$52,626,400	\$2,107,800	\$69,527,300
<b>II. COORDINATED MEDICAID PLAN:</b>				
FROM:				
Cooperative Welfare (General)				
Fund			\$91,150,300	\$91,150,300
Hospital Assessment				
Fund			15,135,300	15,135,300
Cooperative Welfare (Dedicated)				
Fund			996,700	996,700
Cooperative Welfare (Federal)				
Fund			<u>233,145,100</u>	<u>233,145,100</u>
TOTAL			\$340,427,400	\$340,427,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. ENHANCED MEDICAID PLAN:				
FROM:				
Cooperative Welfare (General)				
Fund			\$287,271,700	\$287,271,700
Idaho Health Insurance Access Card				
Fund			922,300	922,300
Hospital Assessment				
Fund			4,406,400	4,406,400
Cooperative Welfare (Dedicated)				
Fund			226,727,900	226,727,900
Cooperative Welfare (Federal)				
Fund			<u>631,296,500</u>	<u>631,296,500</u>
TOTAL			\$1,150,624,800	\$1,150,624,800
IV. BASIC MEDICAID PLAN:				
FROM:				
Cooperative Welfare (General)				
Fund			\$110,766,100	\$110,766,100
Hospital Assessment				
Fund			10,458,300	10,458,300
Cooperative Welfare (Dedicated)				
Fund			1,836,400	1,836,400
Cooperative Welfare (Federal)				
Fund			<u>419,861,300</u>	<u>419,861,300</u>
TOTAL			\$542,922,100	\$542,922,100
GRAND TOTAL	\$14,793,100	\$52,626,400	\$2,036,082,100	\$2,103,501,600

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than two hundred eight (208) full-time equivalent positions for the Medicaid Administration and Medical Management Program at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 4. TRUSTEE AND BENEFIT PAYMENTS. Notwithstanding the provisions of Section 67-3511, Idaho Code, funds budgeted in the trustee and benefit payments expenditure class shall not be transferred to any other expense class during fiscal year 2016.

SECTION 5. PROGRAM INTEGRITY. Notwithstanding any other provisions of law, it is hereby declared to be the intent of the Legislature that the De-

partment of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources appropriated for each budgeted program.

SECTION 6. MEDICAID TRACKING REPORT. The Department of Health and Welfare, Medicaid Division and Indirect Support Services Division, shall deliver on a monthly basis to the Legislative Services Office and the Division of Financial Management a report that compares the Medicaid budget as appropriated, distributed by month for the year, to actual expenditures and remaining forecasted expenditures for the year. The report shall also include a forecast, updated monthly, of the next fiscal year's anticipated trustee and benefit expenditures. The format of the report, and the information included therein, shall be determined by the Legislative Services Office and the Division of Financial Management.

SECTION 7. TRANSFER OF APPROPRIATIONS. Notwithstanding the provisions of Section 67-3511, Idaho Code, funding provided for the trustee and benefit payments expenditure class in the Medicaid Division may be transferred in excess of ten percent (10%) among the Coordinated Medicaid Plan, Enhanced Medicaid Plan, Basic Medicaid Plan, and Medicaid Administration and Medical Management Program, but shall not be transferred to any other budgeted programs or expenditure class within the Department of Health and Welfare during fiscal year 2016.

SECTION 8. MEDICAID MANAGED CARE IMPLEMENTATION. The Medicaid Division shall provide reports biannually to the Legislative Services Office and the Division of Financial Management, on progress in integrating managed care approaches into the state Medicaid system. The format of the report, and information contained therein, shall be determined by the Legislative Services Office and the Division of Financial Management. The first report shall be submitted no later than December 31, 2015, and the second report shall be submitted no later than June 30, 2016.

SECTION 9. REPORT ON FLEXIBLE RECEIPT AUTHORITY. The Medicaid Division shall provide a report annually, at time of budget submission, to the Legislative Services Office and the Division of Financial Management that describes the need for having additional dedicated receipt authority built into the budget. The additional dedicated fund appropriation is not to be considered when calculating the estimated need for ongoing Medicaid costs, but rather to be held in reserve and used in lieu of General Funds when noncognizable receipts are received by the department.

Approved March 30, 2015

CHAPTER 186  
(H.B. No. 247)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO STATE POLICE FOR FISCAL YEAR 2016; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Idaho State Police, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>I. BRAND INSPECTION:</b>					
FROM:					
State Brand Board					
Fund	\$2,286,600	\$374,900	\$99,500		\$2,761,000
<b>II. DIRECTOR'S OFFICE:</b>					
FROM:					
General					
Fund	\$1,929,900	\$182,000	\$2,000		\$2,113,900
Idaho Law Enforcement					
Fund	118,200				118,200
Idaho Law Enforcement (Project Choice)					
Fund	140,800	2,300			143,100
Miscellaneous Revenue					
Fund		56,400			56,400
Federal Grant					
Fund	<u>59,700</u>	<u>18,100</u>	<u>0</u>		<u>77,800</u>
TOTAL	\$2,248,600	\$258,800	\$2,000		\$2,509,400
<b>III. EXECUTIVE PROTECTION:</b>					
FROM:					
General					
Fund	\$315,500	\$63,200			\$378,700
Idaho Law Enforcement (Project Choice)					
Fund	59,600	600			60,200
Miscellaneous Revenue					
Fund	<u>95,800</u>	<u>6,000</u>			<u>101,800</u>
TOTAL	\$470,900	\$69,800			\$540,700
<b>IV. INVESTIGATIONS:</b>					
FROM:					
General					
Fund	\$5,755,700	\$748,200	\$178,500		\$6,682,400
Idaho Law Enforcement (Project Choice)					
Fund	858,500	8,700			867,200
Drug & DWUI Enforcement Donation					
Fund	208,300	467,900	55,000		731,200
Federal Grant					
Fund	<u>131,800</u>	<u>592,300</u>	<u>0</u>	<u>\$105,000</u>	<u>829,100</u>
TOTAL	\$6,954,300	\$1,817,100	\$233,500	\$105,000	\$9,109,900



	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
V. PATROL:					
FROM:					
General					
Fund	\$4,932,700	\$1,562,200	\$2,446,500		\$8,941,400
Idaho Law Enforcement					
Fund	14,005,100	2,362,800	98,500		16,466,400
Idaho Law Enforcement (Project Choice)					
Fund	3,172,400	35,700			3,208,100
Hazardous Materials/Waste Enforcement					
Fund	402,800	76,700	98,500	\$69,100	647,100
Miscellaneous Revenue					
Fund	196,300	29,500			225,800
Federal Grant					
Fund	<u>2,889,600</u>	<u>1,146,500</u>	<u>103,500</u>	<u>2,607,600</u>	<u>6,747,200</u>
TOTAL	\$25,598,900	\$5,213,400	\$2,747,000	\$2,676,700	\$36,236,000
VI. LAW ENFORCEMENT PROGRAMS:					
FROM:					
General					
Fund	\$285,200	\$261,300			\$546,500
Alcohol Beverage Control					
Fund	986,800	440,600	\$23,100		1,450,500
Idaho Law Enforcement (Project Choice)					
Fund	151,200	1,800			153,000
Miscellaneous Revenue					
Fund	<u>0</u>	<u>12,600</u>	<u>0</u>		<u>12,600</u>
TOTAL	\$1,423,200	\$716,300	\$23,100		\$2,162,600
VII. SUPPORT SERVICES:					
FROM:					
General					
Fund	\$1,605,500	\$1,129,600	\$420,900		\$3,156,000
Idaho Law Enforcement					
Fund	101,600	100			101,700
Idaho Law Enforcement (Project Choice)					
Fund	115,400	3,800			119,200
Idaho Law Enforcement Telecommunications					
Fund	564,900	791,000	25,300		1,381,200
Miscellaneous Revenue					
Fund	1,091,200	1,339,800			2,431,000
Federal Grant					
Fund	<u>0</u>	<u>35,800</u>	<u>0</u>		<u>35,800</u>
TOTAL	\$3,478,600	\$3,300,100	\$446,200		\$7,224,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
VIII. FORENSIC SERVICES:					
FROM:					
General					
Fund	\$3,030,800	\$537,700	\$210,400		\$3,778,900
Idaho Law Enforcement (Project Choice)					
Fund	293,300	7,000			300,300
Drug & DWUI Enforcement Donation					
Fund		370,100			370,100
Miscellaneous Revenue					
Fund	77,900	130,300			208,200
Federal Grant					
Fund	<u>125,100</u>	<u>286,900</u>	<u>0</u>		<u>412,000</u>
TOTAL	\$3,527,100	\$1,332,000	\$210,400		\$5,069,500
IX. PEACE OFFICER STANDARDS AND TRAINING ACADEMY:					
FROM:					
Idaho Law Enforcement (Project Choice)					
Fund	\$96,500	\$2,000			\$98,500
Peace Officers Training					
Fund	2,094,900	1,861,600	\$60,400	\$105,900	4,122,800
Miscellaneous Revenue					
Fund		29,000			29,000
Federal Grant					
Fund	<u>36,200</u>	<u>221,200</u>	<u>0</u>	<u>0</u>	<u>257,400</u>
TOTAL	\$2,227,600	\$2,113,800	\$60,400	\$105,900	\$4,507,700
X. RACING COMMISSION:					
FROM:					
Idaho State Racing Commission					
Fund	\$417,000	\$164,000			\$581,000
Parimutuel Distributions					
Fund	<u>0</u>	<u>0</u>		<u>\$30,000</u>	<u>30,000</u>
TOTAL	\$417,000	\$164,000		\$30,000	\$611,000
GRAND TOTAL	\$48,632,800	\$15,360,200	\$3,822,100	\$2,917,600	\$70,732,700

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Idaho State Police is authorized no more than five hundred sixty and five-tenths (560.5) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically

authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 30, 2015

CHAPTER 187  
(H.B. No. 248)

AN ACT

APPROPRIATING MONEYS TO THE COMMISSION ON AGING FOR FISCAL YEAR 2016; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING FOR A MANAGEMENT REVIEW.

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

SECTION 1. 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, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$479,200	\$38,400	\$3,977,100	\$4,494,700
Federal Grant				
Fund	<u>646,300</u>	<u>286,100</u>	<u>7,065,300</u>	<u>7,997,700</u>
TOTAL	\$1,125,500	\$324,500	\$11,042,400	\$12,492,400

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Commission on Aging is authorized no more than thirteen (13) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. MANAGEMENT REVIEW. As provided for in Section 67-702(1)(c), Idaho Code, the Audit Division of the Legislative Services Office will perform a management review of the Idaho Commission on Aging for state fiscal years 2014 and 2015. The review should evaluate compliance with budget laws and proper accounting procedures. This work can be done in coordination with work related to the Single Audit. In addition, the review will include an analysis of revenues and expenditures associated with the operations and management of the region 3 local planning and service area. Further, this review should evaluate the funding distribution formula used by the state to distribute state and federal funds received and identify the: (1) potential impact of changing the funding formula; and (2) steps that would need to be taken to change the formula. At the discretion of the Audit Division the review of region 3 should be compared to other local planning and service areas in Idaho for compliance, consistency and conformity to state and federal laws.

Approved March 30, 2015

CHAPTER 188  
(H.B. No. 249)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE STATE CONTROLLER FOR FISCAL YEAR 2015; APPROPRIATING MONEYS TO THE STATE CONTROLLER FOR FISCAL YEAR 2016; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING FOR THE RECOVERY OF STATE CONTROLLER SERVICE COSTS TO THE GENERAL FUND; PROVIDING DEDICATED FUND REAPPROPRIATION AUTHORITY; 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 204, Laws of 2014, and any other appropriation provided for by law, there is hereby appropriated to the State Controller \$250,000 from the General Fund to be expended for operating expenditures for the period July 1, 2014, through June 30, 2015.

SECTION 2. There is hereby appropriated to the State Controller, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
<b>I. ADMINISTRATION:</b>				
FROM:				
General				
Fund	\$566,000	\$71,200	\$7,900	\$645,100
<b>II. STATEWIDE ACCOUNTING:</b>				
FROM:				
General				
Fund	\$1,613,000	\$1,684,900	\$5,000	\$3,302,900
Miscellaneous Revenue				
Fund	<u>0</u>	<u>20,000</u>	<u>0</u>	<u>20,000</u>
TOTAL	\$1,613,000	\$1,704,900	\$5,000	\$3,322,900
<b>III. STATEWIDE PAYROLL:</b>				
FROM:				
General				
Fund	\$1,398,800	\$1,596,600	\$16,300	\$3,011,700
Miscellaneous Revenue				
Fund	<u>0</u>	<u>20,000</u>	<u>0</u>	<u>20,000</u>
TOTAL	\$1,398,800	\$1,616,600	\$16,300	\$3,031,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
IV. COMPUTER CENTER:				
FROM:				
Data Processing Services				
Fund	\$4,582,900	\$2,852,000	\$29,600	\$7,464,500
GRAND TOTAL	\$8,160,700	\$6,244,700	\$58,800	\$14,464,200

SECTION 3. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the State Controller is authorized no more than ninety-five (95) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. The moneys assessed by the Division of Financial Management in accordance with Section 67-3531, Idaho Code, for State Controller services shall be placed in the Indirect Cost Recovery Fund. On June 30, 2016, the State Controller shall transfer the amount assessed in the statewide cost allocation plan from the Indirect Cost Recovery Fund to the state General Fund.

SECTION 5. DEDICATED FUND REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the State Controller any unexpended and unencumbered balances appropriated or reappropriated to the State Controller for the Computer Service Center Program for fiscal year 2015, to be used for nonrecurring expenditures in that program for the period July 1, 2015, through June 30, 2016.

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 30, 2015

CHAPTER 189  
(H.B. No. 250)

AN ACT  
APPROPRIATING MONEYS TO THE IDAHO COMMISSION FOR LIBRARIES FOR FISCAL YEAR 2016; 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 Commission for Libraries, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$1,849,100	\$1,513,500	\$20,800	\$200,000	\$3,583,400
Miscellaneous Revenue					
Fund		55,000	5,000	10,000	70,000
Federal Grant					
Fund	<u>586,200</u>	<u>916,500</u>	<u>45,000</u>	<u>60,000</u>	<u>1,607,700</u>
TOTAL	\$2,435,300	\$2,485,000	\$70,800	\$270,000	\$5,261,100

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Idaho Commission for Libraries is authorized no more than thirty-seven and one-half (37.50) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 30, 2015

CHAPTER 190  
(H.B. No. 251)

AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 2016; 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 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, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. EXTENDED EMPLOYMENT SERVICES:					
FROM:					
General					
Fund	\$466,100	\$23,700		\$3,418,300	\$3,908,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. VOCATIONAL REHABILITATION:					
FROM:					
General					
Fund	\$1,663,200	\$254,000	\$15,200	\$1,513,900	\$3,446,300
Rehabilitation Revenue and Refunds					
Fund				1,081,500	1,081,500
Miscellaneous Revenue					
Fund	64,700	1,700		894,500	960,900
Federal Grant					
Fund	<u>7,652,600</u>	<u>1,206,400</u>	<u>54,800</u>	<u>6,929,700</u>	<u>15,843,500</u>
TOTAL	\$9,380,500	\$1,462,100	\$70,000	\$10,419,600	\$21,332,200

## III. COUNCIL FOR THE DEAF AND HARD OF HEARING:

FROM:

General

Fund	\$165,700	\$37,700			\$203,400
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GRAND TOTAL	\$10,012,300	\$1,523,500	\$70,000	\$13,837,900	\$25,443,700
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SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Division of Vocational Rehabilitation is authorized no more than one hundred fifty-two and five-tenths (152.5) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 30, 2015

CHAPTER 191  
(H.B. No. 253)

## AN ACT

APPROPRIATING MONEYS TO THE COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED FOR FISCAL YEAR 2016; 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 Commission for the Blind and Visually Impaired, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$738,500	\$51,900	\$599,200	\$1,389,600
Randolph Sheppard				
Fund		27,600	100,100	127,700
Rehabilitation Revenue and Refunds				
Fund		34,300	13,000	47,300
Miscellaneous Revenue				
Fund		28,100	56,300	84,400
Adaptive Aids and Appliances				
Fund	19,100	97,900		117,000
Federal Grant				
Fund	<u>1,886,500</u>	<u>556,000</u>	<u>541,500</u>	<u>2,984,000</u>
TOTAL	\$2,644,100	\$795,800	\$1,310,100	\$4,750,000

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Commission for the Blind and Visually Impaired is authorized no more than forty and twelve hundredths (40.12) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 30, 2015

CHAPTER 192  
(H.B. No. 254)

AN ACT

APPROPRIATING MONEYS TO THE ATTORNEY GENERAL FOR FISCAL YEAR 2016; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND EXEMPTING THE APPROPRIATION FROM OBJECT AND PROGRAM TRANSFER LIMITATIONS.

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, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. STATE LEGAL SERVICES:					
FROM:					
General					
Fund	\$17,751,800	\$841,700	\$134,200		\$18,727,700



	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Consumer Protection					
Fund	231,900	153,000			384,900
Federal Grant					
Fund	<u>746,300</u>	<u>346,600</u>	<u>0</u>		<u>1,092,900</u>
TOTAL	\$18,730,000	\$1,341,300	\$134,200		\$20,205,500

## II. INTERNET CRIMES AGAINST CHILDREN:

FROM:

General

Fund	\$505,200	\$235,500		\$884,800	\$1,625,500
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## III. SPECIAL LITIGATION:

FROM:

General

Fund		\$965,000			\$965,000
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GRAND TOTAL	\$19,235,200	\$2,541,800	\$134,200	\$884,800	\$22,796,000
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SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Attorney General is authorized no more than two hundred two and six-tenths (202.6) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, 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 2016, the Attorney General is hereby exempted from the provisions of Sections 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, 2015, through June 30, 2016. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

Approved March 30, 2015

CHAPTER 193  
(H.B. No. 46)

## AN ACT

RELATING TO HEALTH BENEFIT PLANS; AMENDING SECTION 41-6103, IDAHO CODE, TO DEFINE A TERM AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 41-6103, Idaho Code, be, and the same is hereby amended to read as follows:

41-6103. DEFINITIONS. For the purposes of this chapter:

(1) "Board" means those individuals who, acting as a board of directors of the exchange, govern and act for the exchange, pursuant to section 41-6104, Idaho Code.

(2) "Conflict of interest" means that by taking any action or making any decision or recommendation on a matter within the authority of the board, a member of the board, or a person within the member's household, or any entity with which the member, or a person within the member's household is associated, would receive a pecuniary benefit or detriment, unless the pecuniary benefit or detriment would apply to the same degree to a class consisting of all persons within the particular class in this state.

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

(4) "Exchange" means the Idaho health insurance exchange established pursuant to this chapter.

(5) "Health carrier" has the same meaning as "carrier" as set forth in section 41-5203(5), Idaho Code.

(6) "Person" has the same meaning as set forth in section 41-104, Idaho Code.

(7) "Producer" has the same meaning as set forth in section 41-1003(8), Idaho Code.

(8) "Stand-alone dental plan" means a policy, certificate of insurance or subscriber contract that provides only dental health plan benefits, which may include adult, pediatric or both, and is approved by the department of insurance as being in compliance with the requirements of state law and departmental rules relating to such policy, certificate of insurance or subscriber contract.

Approved March 30, 2015

CHAPTER 194  
(H.B. No. 59)

AN ACT

RELATING TO PLUMBING; AMENDING SECTION 54-2617, IDAHO CODE, TO REVISE THE TIME PERIOD FOR RENEWAL OF EXPIRED PLUMBING CERTIFICATE OF COMPETENCY, TO PROVIDE FOR AN INACTIVE CERTIFICATE OF COMPETENCY FOR CERTAIN PERSONS AND TO PROVIDE FOR A TEMPORARY CERTIFICATE OF COMPETENCY IN CERTAIN SITUATIONS.

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

SECTION 1. That Section 54-2617, Idaho Code, be, and the same is hereby amended to read as follows:

54-2617. CERTIFICATE EXPIRATION -- RENEWAL -- INACTIVE LICENSE -- TEMPORARY CONTRACTOR LICENSE -- RULES FOR STAGGERED SCHEDULE. (1) Certificates of competency shall be issued for a period of three (3) years, and shall expire three (3) years from the date of issue, unless sooner revoked or suspended.

(2) A certificate of competency for plumbing contractor or journeyman may be renewed at any time during the month prior to its expiration by providing proof of completion of the continuing education requirements as established by the board and compliance with all other renewal requirements of statute or rule. A certificate of competency for plumbing specialty contractor and specialty journeyman may be renewed at any time during the month prior to its expiration by compliance with all renewal requirements of statute or rule.

(3) Failure of any holder to timely renew a certificate of competency shall cause lapse of the certificate, but it may be revived within one two (12) years without examination only upon payment of the full initial fee.

(4) The administrator may renew, on an inactive basis, a certificate of competency for plumbing contractor or specialty contractor who is not engaged in plumbing contracting in this state. The board shall fix and collect an inactive license fee for such an inactive license renewal in an amount not to exceed thirty-six dollars (\$36.00). Each inactive certificate of competency shall be issued for a period of one (1) year. A plumbing contractor or specialty contractor holding an inactive license may not engage in the practice of plumbing contracting or specialty contracting in this state. A plumbing contractor or specialty contractor's inactive license may be converted to an active license by paying a processing fee of thirty dollars (\$30.00) to the administrator, by providing proof of completion of the continuing education requirements for the duration of the inactive period that would have been required during that period for an active license, and by furnishing a compliance bond in the amount of two thousand dollars (\$2,000) or evidence of such coverage by a corporate industry group bond acceptable to the board.

(5) In the event that a plumbing contractor dies or becomes otherwise incapacitated, a temporary plumbing contractor certificate of competency may be issued to an applicant who holds an active Idaho journeyman certificate of competency to represent the firm, company, copartnership, association or corporation previously represented by the deceased or incapacitated contractor. The holder of a temporary contractor certificate of competency may perform all the acts a plumbing contractor is authorized to do by this chapter and the rules promulgated by the board, with the exception of procuring a new permit from the division of building safety or from a city or soliciting new work. A temporary contractor certificate of competency shall be valid for a period not longer than ninety (90) days from the date it is issued, and it may be renewed one (1) time by the administrator upon written request of the holder of the certificate.

(6) The board shall promulgate rules to provide for a staggered schedule of issuing and renewing certificates of competency.

Approved March 30, 2015

CHAPTER 195  
(H.B. No. 78)

AN ACT

RELATING TO THE EMPLOYMENT SECURITY LAW; AMENDING SECTION 72-1369, IDAHO CODE, TO CLARIFY THAT FIFTEEN PERCENT OF CERTAIN OVERPAYMENTS MUST BE PAID INTO THE EMPLOYMENT SECURITY FUND AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 72-1369, Idaho Code, be, and the same is hereby amended to read as follows:

72-1369. OVERPAYMENTS, CIVIL PENALTIES AND INTEREST -- COLLECTION AND WAIVER. (1) Any person who received benefits to which he was not entitled under the provisions of this chapter or under an unemployment insurance law of any state or of the federal government shall be liable to repay the benefits and the benefits shall, for the purpose of this chapter, be considered to be overpayments.

(2) Civil penalties. The director shall assess the following monetary penalties for each determination in which the claimant is found to have made a false statement, misrepresentation, or failed to report a material fact to the department:

- (a) Twenty-five percent (25%) of any resulting overpayment for the first determination;
- (b) Fifty percent (50%) of any resulting overpayment for the second determination; and
- (c) One hundred percent (100%) of any resulting overpayment for the third and any subsequent determination.

(3) Any overpayment, civil penalty and/or interest which has not been repaid may, in addition to or alternatively to any other method of collection prescribed in this chapter, including the creation of a lien as provided by section 72-1360, Idaho Code, be collected with interest thereon at the rate prescribed in section 72-1360(2), Idaho Code. The director may also file a civil action in the name of the state of Idaho. In bringing such civil actions for the collection of overpayments, penalties and interest, the director shall have all the rights and remedies provided by the laws of this state, and any person adjudged liable in such civil action for any overpayments shall pay the costs of such action. A civil action filed pursuant to this subsection ~~(3)~~ shall be commenced within five (5) years from the date of the final determination establishing liability to repay. Any judgment obtained pursuant to this section shall, upon compliance with the requirements of chapter 19, title 45, Idaho Code, become a lien of the same type, duration and priority as if it were created pursuant to section 72-1360, Idaho Code.

(4) Collection of overpayments and civil penalties.

(a) Overpayments, other than those resulting from a false statement, misrepresentation, or failure to report a material fact by the claimant, which have not been repaid or collected, may, at the discretion of the director, be deducted from any future benefits payable to the claimant under the provisions of this chapter. Such overpayments not recovered within five (5) years from the date of the final determination establishing liability to repay may be deemed uncollectible.

(b) Overpayments resulting from a false statement, misrepresentation, or failure to report a material fact by the claimant which have not been recovered within eight (8) years from the date of the final determination establishing liability to repay may be deemed uncollectible.

(c) ~~The first fifteen percent (15%) of a civil penalty assessed pursuant to subsection (2) of this section shall be paid as follows:~~

(i) An amount totaling fifteen percent (15%) of the overpayment shall be paid into the employment security fund created in section 72-1346, Idaho Code; and

(ii) Any additional amounts collected shall be paid into the employment security administrative and reimbursement fund created in section 72-1348, Idaho Code.

(5) The director may waive the requirement to repay an overpayment, other than one resulting from a false statement, misrepresentation, or failure to report a material fact by the claimant, and interest thereon, if:

(a) The benefit payments were made solely as a result of department error or inadvertence and made to a claimant who could not reasonably have been expected to recognize the error; or

(b) Such payments were made solely as a result of an employer misreporting wages earned in a claimant's base period and made to a claimant who could not reasonably have been expected to recognize an error in the wages reported.

(6) Neither the director nor any of his agents or employees shall be liable for benefits paid to persons not entitled to the same under the provisions of this chapter if it appears that such payments have been made in good faith and that ordinary care and diligence have been used in the determina-

tion of the validity of the claim or claims under which such benefits have been paid.

(7) The director may, in his sole discretion, compromise any or all of an overpayment, civil penalty in excess of the amount required to be paid into the employment security fund pursuant to subsection (4) (c) of this section, interest or fifty-two (52) week disqualification assessed under subsections (1) and (2) of this section and section 72-1366(12), Idaho Code, when the director finds it is in the best interest of the department.

Approved March 30, 2015

CHAPTER 196  
(H.B. No. 81)

AN ACT

RELATING TO GEOLOGISTS; AMENDING SECTION 54-2812, IDAHO CODE, TO REVISE LANGUAGE RELATING TO EXAMINATIONS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 54-2814, IDAHO CODE, TO CLARIFY THE EXAMINATION PROCESS.

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

SECTION 1. That Section 54-2812, Idaho Code, be, and the same is hereby amended to read as follows:

54-2812. QUALIFICATIONS FOR REGISTRATION. (1) ~~All applicants shall successfully pass an examination given by or under the supervision of the board.~~ No applicant shall be registered having habits of character that would justify revocation or suspension of registration, as provided in section 54-2819, Idaho Code. The following shall be considered as minimum evidence that the applicant is qualified ~~to take an examination~~ for registration as a professional geologist:

(2a) Completion of thirty (30) semester units in courses in geological science leading to a degree in the geological sciences of which at least twenty-four (24) units are in third or fourth year, and/or graduate courses, successfully pass examinations approved by the board; and have at least seven (7) years of professional geological work which shall include either a minimum of three (3) years of professional geological work under the supervision of a registered geologist; or, wherein the applicant has been under the direct supervision of an individual acceptable to the board, or, wherein the applicant has demonstrated five (5) years of progressive experience in responsible charge of geological work that is acceptable to the board.

(b) Each year of undergraduate study in the geological sciences shall count as one-half (1/2) year of training up to a maximum of two (2) years, and each year of graduate study or research counts as a year of training.

(c) Teaching in the geological sciences at college level shall be credited year for year toward meeting the requirement in this category, provided that the total annual teaching experience includes six (6) semester units of third or fourth year or graduate courses.

(d) Credit for undergraduate study, graduate study, and teaching, individually, or in any combination thereof, shall in no case exceed a total of four (4) years towards meeting the requirement for at least seven (7) years of professional geological work as set forth above pursuant to this section.

(e) The ability of the applicant shall have been demonstrated by having performed the work in a responsible position, as the term "responsible position" is defined in rules adopted by the board. The adequacy of the required supervision and experience shall be determined in accordance with standards set forth in the rules adopted by the board.

(f) Three (3) references from geologists in responsible positions must be filed with the application for registration.

(32) A person holding a certificate of registration to engage in the practice of geology, issued to him by a proper authority of a state, territory, or possession of the United States, the District of Columbia, or of any foreign country, who, in the opinion of the board, meets the requirements of this chapter, based on verified evidence may, upon application, be registered without further examination.

An applicant otherwise qualified as prescribed in this chapter need not be actively engaged in the practice of geology to be eligible for registration.

SECTION 2. That Section 54-2814, Idaho Code, be, and the same is hereby amended to read as follows:

54-2814. EXAMINATION AND FEE -- TIME AND PLACE -- SCOPE -- REEXAMINATION -- REEXAMINATION FEE. Examinations shall be held at such time and place as the board shall determine. ~~If examinations are required on fundamental geologic subjects, such as are ordinarily given in college curricula, the applicant may be permitted to take this part of the professional examination prior to completion of the requisite years of experience in geologic work, and satisfactory passage of this portion of the professional examination by the applicant shall constitute a credit toward the applicant's complete professional examination for a period not to exceed ten (10) years. The examination fee and the reexamination fee shall be set by the rules of the board~~ The complete professional examination for registration as a professional geologist shall consist of a written examination that covers subjects ordinarily contained in a college curriculum and a written examination that covers the practice of geology. The board shall establish by rule the approved examinations, their passing score and an applicant's eligibility to take the examinations.

~~The scope of the examination and the methods of procedure shall be prescribed by the board with special reference to the applicant's ability to supervise geologic projects so as to ensure the safety of life, health and property. A candidate failing his first examination may apply for reexamination within one (1) year of the failed exam without filing a new application and shall be entitled to such reexamination on payment of the reexamination fee set by the board. A candidate who fails on reexamination, must file a new application before he can again be admitted to examination, and such new application shall not be filed prior to one (1) year following the date of the last examination taken by the applicant; provided, however, that it shall be unlawful for a candidate failing any examination to practice professional geology under subsections (b) and (c) of section 54-2822, Idaho Code.~~

Approved March 30, 2015

CHAPTER 197  
(H.B. No. 102)

AN ACT

RELATING TO CURFEWS; AMENDING SECTION 20-549, IDAHO CODE, TO REVISE THE PENALTY FOR A JUVENILE CURFEW VIOLATION.

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

SECTION 1. 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 constitute an infraction and shall be punishable by a fine ~~not to exceed three of one hundred fifty dollars (\$30150), 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)(c) 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 March 30, 2015

CHAPTER 198  
(H.B. No. 121)

AN ACT

RELATING TO CRIMINAL PROCEDURE; AMENDING SECTION 18-113A, IDAHO CODE, TO REMOVE A PROVISION RELATING TO THE PENALTY IMPOSED WHEN CERTAIN LANGUAGE IS USED AND TO REMOVE A CODE REFERENCE; AMENDING SECTION 18-3908, IDAHO CODE, TO REVISE TERMINOLOGY AND TO REVISE THE PENALTY FOR FLOODING A HIGHWAY; AND AMENDING SECTION 39-5507, IDAHO CODE, TO REVISE THE PENALTY FOR CERTAIN SMOKING VIOLATIONS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 18-113A, Idaho Code, be, and the same is hereby amended to read as follows:

18-113A. PUNISHMENT FOR INFRACTION. Every offense declared to be an infraction is punishable only by a penalty not exceeding three hundred dollars (\$300) as provided in this section and no imprisonment. The penalty for an infraction shall be:

- (1) The amount set by statute;
- (2) Subject to subsection (1) of this section, the amount set as a fixed penalty for that infraction as of January 1, 2014, by the Idaho supreme court infraction rule 9, excepting subsection (38) of infraction rule 9 for "other infractions";
- (3) The amount set by city or county ordinance for which the city or county has authority to impose a penalty and which is not otherwise set under subsection (1) or (2) of this section; or
- (4) ~~An amount set by the sentencing court in its discretion where the statute or ordinance authorizing the penalty for a specific infraction violation sets an upper penalty limit using language such as "not to exceed" or "not more than" a specific amount; or~~
- ~~(5) Fifteen dollars and fifty cents (\$15.50) for an infraction without a specific penalty set under subsection (1), (2) or (3) of this section, or having no specific upper limit for which the sentencing court has discretion under subsection (4) of this section.~~

SECTION 2. That Section 18-3908, Idaho Code, be, and the same is hereby amended to read as follows:

18-3908. FLOODING HIGHWAYS. Any person who runs water either by flooding or sprinkler irrigation across any public highway, road or street, without first constructing a good and sufficient ditch or ditches to convey the same, or who fails to bridge such ditch or ditches, or to keep such bridge or ditches in good repair, or to ensure that the flow from the sprinkler does not flood the public highway, road or street and all persons, companies or corporations who suffer any water used by them for the purpose of irrigation, or any other purposes, to flow into or upon any public highway, road or street, in any other manner than that authorized by law, are guilty of an infraction on the first offense, and shall be guilty of a misdemeanor for each offense thereafter per calendar year, and upon conviction thereof must ~~shall~~ be fined in any sum not less than one dollar (\$1.00) nor more than fifty dollars (\$50.00), ~~together with the costs of suit,~~ and for a second offense, double said fine and costs; and it is hereby made the duty of all road supervisors, constables and marshals, to make complaint before the proper court, for violations of this section, whenever notified or having knowledge thereof. A person may not be charged under the provisions of this chapter if the flooding from a sprinkler or other water conveyance system is a result of mechanical failure, wind or other climatic condition, or other circumstances outside of the control of the person.

SECTION 3. That Section 39-5507, Idaho Code, be, and the same is hereby amended to read as follows:

39-5507. VIOLATIONS. An employer, or other person in charge of a public place or ~~publicly-owned~~ publicly owned building, or the agent or employee of such person, who observes a person smoking in apparent violation of this chapter shall ask the person to extinguish all lighted tobacco products. If the person persists in violating this chapter, the employer, person in charge, agent or employee shall ask the person to leave the premises. Any person who refuses to either extinguish all lighted tobacco products or leave the premises is guilty of an infraction and is subject to a fine ~~net~~



~~to exceed fifty of seventeen~~ dollars and fifty cents (\$50.00 17.50). Any violation may be reported to a law enforcement officer.

Approved March 30, 2015

CHAPTER 199  
(H.B. No. 156)

AN ACT

RELATING TO PURCHASE OF PROPERTY BY A COUNTY; AMENDING SECTION 63-1108, IDAHO CODE, TO PROVIDE THAT THE COUNTY TAX COLLECTOR MAY BID ON PROPERTY FOR SALE IF IT IS DEEMED IN THE BEST INTEREST OF THE COUNTY, TO PROVIDE THAT THE TAX COLLECTOR SHALL DISPOSE OF THE PURCHASED PROPERTY BY SALE IN THE SAME MANNER AS OTHER PERSONAL PROPERTY BELONGING TO THE COUNTY AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 63-1108, Idaho Code, be, and the same is hereby amended to read as follows:

63-1108. PURCHASE BY COUNTY. In the event that no person bids on any property offered for sale, or if such property, in the judgment of the tax collector exceeds in value the amount of the highest bid made ~~and the tax collector deems it for the best interests of the county, he shall bid on the property himself for the county,~~ the tax collector may bid on the property if it is deemed in the best interest of the county. He shall dispose of the purchased property by sale in the same manner as other personal property belonging to the county. However, the tax collector shall not buy any property for the county when a sufficient sum to defray the property taxes and costs of sale is bid therefor.

Approved March 30, 2015

CHAPTER 200  
(H.B. No. 172)

AN ACT

RELATING TO THE IDAHO REIMBURSEMENT INCENTIVE ACT; AMENDING SECTION 67-4738, IDAHO CODE, TO REVISE THE DEFINITION OF "NEW JOBS" AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-4739, IDAHO CODE, TO REVISE APPLICATION REQUIREMENTS; AMENDING SECTION 67-4740, IDAHO CODE, TO REVISE THE AGREEMENT WITH THE APPLICANT AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 67-4741, IDAHO CODE, TO REVISE APPLICANT REPORTING REQUIREMENTS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 67-4738, Idaho Code, be, and the same is hereby amended to read as follows:

67-4738. DEFINITIONS. As used in sections 67-4737 through 67-4744, Idaho Code:

(1) "Applicant" means a business entity that intends to create new jobs and submits an application for reimbursement to the department in accordance with this act.

(2) "Application" means a form approved by the director of the department containing all information required by the provisions of this act.

(3) "Approved percentage" means the amount of new state revenue the applicant is entitled to receive in the form of a tax credit over the term of the project. The approved percentage shall not exceed thirty percent (30%) of the new state revenue over the term of the project subject to the criteria as established by rules.

(4) "Business entity" means a single business, a separate division, branch or identifiable segment, or a group of businesses related through ownership pursuant to section 267 of the Internal Revenue Code. For the purpose of this subsection, a "separate division, branch, or identifiable segment" shall be deemed to exist if, prior to the date of application, the income and expense attributable to such "separate division, branch, or identifiable segment" could be separately ascertained from the books of accounts and records.

(5) "Community match" means a commitment by the local government that demonstrates its active support of the applicant creating new jobs in its jurisdiction. Such match may include, but shall not be limited to, a contribution of money, fee waivers, in-kind services, the provision of infrastructure or a combination thereof. Such match shall also include a letter of commitment by the governing elected officials of the jurisdiction detailing the local government's support that shall be included as part of an application.

(6) "Council" means the economic advisory council created pursuant to chapter 47, title 67, Idaho Code.

(7) "Department" means the Idaho department of commerce.

(8) "Director" means the director of the Idaho department of commerce.

(9) "Full-time job" means a job in which an individual is employed by the applicant and performs such duties at least thirty (30) hours per week.

(10) "Meaningful project" means an expansion of an existing business located in Idaho or the creation of new business operations in Idaho that generate the minimum required new jobs and otherwise qualify under the provisions of this act.

(11) "Minimum new jobs" means new jobs created by the applicant that shall be not less than twenty (20) such jobs over the term of the project if created within a rural community, or not less than fifty (50) such jobs over the term of the project if created within an urban community. An applicant will not be eligible for tax credit during the term of the project until the minimum new jobs have been added.

(12) "New jobs" means new jobs created in Idaho in accordance with this act that are nonseasonal, full-time jobs that collectively pay an average annual wages that equals or exceeds the average annual county wage where the jobs will be created of the county with jurisdiction over the local government providing the applicant's community match. For purposes of this act, a job that shifts from one (1) location within the state of Idaho to another location shall not be considered a new job. New jobs must exceed the applicant's maximum number of full-time jobs in Idaho during the twelve (12) months immediately preceding the date of application.

(13) "New state revenue" means the Idaho portion of state corporate income tax, personal income tax and sales and use tax that is paid by the applicant in excess of those taxes paid at the date of application and is attributable only to the new growth upon which the application is based. New state revenue does not include taxes paid during the term that is attributable to those operations that existed prior to the application. New state revenue shall include:

(a) Incremental new state sales and use tax revenues as governed by chapter 36, title 63, Idaho Code, that have been paid by the applicant on their own purchases as a result of a meaningful project;

(b) Incremental new state income tax, including income tax generated by corporations, pass-through entities, as defined in section 63-3006C,

Idaho Code, or proprietorships, pursuant to chapter 30, title 63, Idaho Code, that have been paid by an applicant as a result of a meaningful project;

(c) Incremental new state personal income taxes, as governed by chapter 30, title 63, Idaho Code, withheld on behalf of the applicant's employees, resulting from new jobs in a meaningful project, as evidenced by payroll withholding records indicating the amount of employee income taxes withheld and transmitted to the tax commission. Incremental new state personal income taxes shall not exceed the maximum allowable percentage of gross wages paid during a corresponding period that shall be the lesser of seven percent (7%) or the highest incremental state income tax rate.

(14) "Rural community" means, at the time of application, a city with a population of less than twenty-five thousand (25,000) persons or an unincorporated area within a county.

(15) "Tax commission" means the Idaho state tax commission.

(16) "Tax credit" means a refundable tax credit authorized by the director of the department. The tax commission shall make a refund to an applicant that is granted a tax credit under this section if the amount of the tax credit exceeds the applicant's tax liability for a taxable year. The credit may be used as a credit against the income or franchise tax contained in chapter 30, title 63, Idaho Code.

(17) "Tax credit amount" means the amount the department authorizes as a tax credit for a taxable year.

(18) "Term of project" or "term" means the number of years an applicant is authorized to receive a tax credit under this act that shall not exceed fifteen (15) years subject to the criteria as established by rules.

(19) "Urban community" means, at the time of application, a city with a population of at least twenty-five thousand (25,000), provided however, that a city of less than twenty-five thousand (25,000) that is adjoining an urban community shall be considered urban.

SECTION 2. That Section 67-4739, Idaho Code, be, and the same is hereby amended to read as follows:

67-4739. APPLICATION -- PROCESS -- AGREEMENTS -- REIMBURSEMENT. (1) A business entity may claim a refundable tax credit for creating a minimum number of new jobs in the state of Idaho. In order to be considered for participation, an applicant or its designated representative must submit an application to the director and shall include:

(a) A complete description of the proposed project and the economic benefit that will accrue to the state as a result of the project;

(b) A description or explanation of whether the project will occur or how it will be altered if the tax credit application is denied by the council;

(c) Proof of a community match;

(d) ~~An affidavit~~ A letter from the tax commission confirming that the applicant is in good standing in the state of Idaho and is not in unresolved arrears in the payment of any state tax or fee administered by the tax commission;

(e) A detailed statement with an estimate of Idaho goods and services to be consumed or purchased by the applicant during the term;

(f) Known or expected detriments to the state or existing industries in the state;

(g) An anticipated project inception date and proposed schedule of progress;

(h) Proposed performance requirements and measurements that must be met prior to issuance of the tax credit;

(i) A detailed description of the proposed capital investment;

(j) A detailed description of jobs to be created, an approximation of the number of such jobs to be created and the projected average wages to be paid for such jobs; and

(k) A detailed description of the estimated new state tax revenues to be generated by the project;

(l) Identification of any individual or entity included within the application that is entitled to a rebate pursuant to section 63-3641 or 63-4408, Idaho Code, or is required to obtain a separate seller's permit pursuant to chapter 36, title 63, Idaho Code; and

(m) The federal employer identification or social security number for each individual or entity stated as the business entity in the agreement.

(2) Upon satisfaction by the director that all requirements are met pursuant to this chapter, the director shall submit such application to the council. The council shall review the application, may request additional information and shall approve or reject the application. An approval or rejection from the council shall not be considered a contested case pursuant to chapter 52, title 67, Idaho Code; provided, however, that nothing in this section shall prohibit an aggrieved applicant from seeking judicial review as provided in chapter 52, title 67, Idaho Code.

(3) If the council approves the application, the council shall instruct the director to enter into an agreement with the applicant with the terms of the council's approval. If the council rejects an application, the applicant may reapply with a new application.

(4) In the event a member of the council has a conflict of interest on an application that is before the council, the member shall fully disclose it to the council and abstain from any vote on the application.

SECTION 3. That Section 67-4740, Idaho Code, be, and the same is hereby amended to read as follows:

67-4740. AGREEMENT WITH APPLICANT. ~~(1)~~ With instruction from the council, and in accordance with criteria as established by rules, the director of the department shall enter into a reimbursement incentive agreement with the applicant, provided the agreement defines the following in addition to the terms as approved by the council:

(a) The term of the agreement, which in no case shall exceed fifteen (15) years;

(b) The projected new state revenues to be generated during the term of the project;

(c) The method and recordkeeping requirements to be used by the applicant to determine the new state revenue paid by the applicant. The approved tax credit percentage applied to new state revenue each year the applicant is entitled to receive the reimbursement during the term of the project;

(d) The projected new jobs;

(e) The terms and conditions of any and all requirements and measurements that must be met prior to the issuance of a tax credit authorization;

(f) The agreed upon and necessary proof of compliance required prior to tax credit issuance. Proof of compliance provided by the applicant must be adequate to demonstrate to the director that all requirements and measurements have been met for the applicant to receive the tax credit;

(g) The consequences of default by the applicant;

(h) The period to be used to determine the taxes paid at the date of application;

~~(i) Identification of any individual or entity included within the application that is entitled to a rebate pursuant to section 63-3641 or~~

~~63-4408, Idaho Code, or is required to obtain a separate seller's permit pursuant to chapter 36, title 63, Idaho Code.~~

~~(j) The federal employer identification and social security number for each individual or entity included within the definition of business entity and that is included within the filing of the application; and~~

~~(k) Identification of the individual or entity that is or will be claiming the refundable credit.~~

SECTION 4. That Section 67-4741, Idaho Code, be, and the same is hereby amended to read as follows:

67-4741. APPLICANT'S ANNUAL REPORTING PROCEDURE. (1) On an annual basis during the term of the project, the applicant shall submit to the department reporting information outlined in the agreement that shall include, but not be limited to, the following:

(a) Supporting documentation of the new state revenues from the applicant's new project that were paid during the preceding calendar tax year;

(b) Supporting documentation of the new jobs that were created during the preceding calendar tax year;

~~(c) Known or expected detriments to the state or existing industries in the state;~~

~~(d) A document that expressly directs and authorizes the tax commission and department of labor to allow the department access to the applicant's returns and other information that may be necessary to verify or otherwise confirm the declared new state revenues;~~

~~(e) An affidavit~~ A letter from the tax commission confirming that the applicant is in good standing in the state of Idaho and is not in unresolved arrears in the payment of any state tax or fee administered by the tax commission;

~~(f) Identification of any individual or entity included within the application that is entitled to a rebate pursuant to section 63-3641 or 63-4408, Idaho Code, or is required to obtain a separate seller's permit pursuant to chapter 36, title 63, Idaho Code; and~~

~~(g) Supporting documentation that the business entity has satisfied the measurements and requirements outlined in the agreement.~~

(2) If, after review and audit of the information provided by the applicant, or after review of the ongoing performance of the applicant, the department determines that the information is inadequate to provide a reasonable justification for authorizing or continuing a tax credit, the department shall:

(a) Deny the tax credit for such tax year;

(b) Terminate the agreement for failure to meet the performance standards established in the agreement; or

(c) Inform the applicant that the returns or other information are inadequate and request the applicant to submit additional documentation.

(3) If, after review and/or audit of the information provided by the applicant, the department determines that the information provided by the applicant provides reasonable justification for authorizing a tax credit, the department shall, based upon the returns and other information:

(a) Determine the amount of the tax credit to be granted to the applicant, which amount shall be the lowest approved percentage that will incentivize creation of new jobs and new state revenue;

(b) Issue a tax credit authorization to the applicant; and

(c) Provide a duplicate copy of the tax credit authorization to the tax commission.

(4) No applicant may claim a tax credit unless the applicant has a tax credit authorization issued by the department. An applicant may claim a tax credit in the amount listed on the tax credit authorization on its tax return.

Approved March 30, 2015

CHAPTER 201  
(H.B. No. 190)

AN ACT

RELATING TO THE STATE BOARD OF EDUCATION; AMENDING SECTION 33-130, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A FEE FOR UNDERGOING A CRIMINAL HISTORY CHECK AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 33-130, Idaho Code, be, and the same is hereby amended to read as follows:

33-130. CRIMINAL HISTORY CHECKS FOR SCHOOL DISTRICT EMPLOYEES OR APPLICANTS FOR CERTIFICATES OR INDIVIDUALS HAVING CONTACT WITH STUDENTS -- STATEWIDE LIST OF SUBSTITUTE TEACHERS. (1) The department of education, through the cooperation of the Idaho state police, shall establish a system to obtain a criminal history check on individuals to include, but is not limited to, certificated and noncertificated employees, all applicants for certificates pursuant to chapter 12, title 33, Idaho Code, substitute staff, individuals involved in other types of student training such as practicums and internships, and on all individuals who have unsupervised contact with students in a K-12 setting. The criminal history check shall be based on a completed ten (10) finger fingerprint card or scan and shall include, at a minimum, the following state and national databases:

- (1a) Idaho bureau of criminal identification;
- (2b) Federal bureau of investigation (FBI) criminal history check; and
- (3c) Statewide sex offender register.

(2) The state department of education shall charge all such individuals a fee of ~~forty dollars (\$40.00)~~ for necessary to cover the cost of undergoing a criminal history check pursuant to this section. The total fee shall be sufficient to cover the net costs charged by the federal bureau of investigation, and the state police and the state department of education. A record of all background checks shall be maintained at the state department of education in a data bank for all employees of a school district with a copy going to the applicant upon request.

(3) The state department of education shall maintain a statewide list of substitute teachers. The term "substitute teacher" shall have the meaning as provided in section 33-512(15), Idaho Code.

(4) The Idaho state police and the department of education shall implement a joint exercise of powers agreement pursuant to sections 67-2328 through 67-2333, Idaho Code, necessary to implement the provisions of this section.

Approved March 30, 2015

CHAPTER 202  
(H.B. No. 209)

AN ACT

RELATING TO THE SALES AND USE TAX; AMENDING SECTION 63-3616, IDAHO CODE, TO REVISE THE DEFINITION OF "TANGIBLE PERSONAL PROPERTY" AND TO REMOVE THE DEFINITION OF "DIGITAL VIDEOS"; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 63-3616, Idaho Code, be, and the same is hereby amended to read as follows:

63-3616. TANGIBLE PERSONAL PROPERTY. (a) The term "tangible personal property" means personal property which may be seen, weighed, measured, felt or touched, or which is in any other manner perceptible to the senses.

(b) The term "tangible personal property" includes any computer software except the following: custom computer programs; computer software that is delivered electronically; remotely accessed computer software; and computer software that is delivered by the load and leave method where the vendor or its agent loads the software at the user's location but does not transfer any tangible personal property containing the software to the user. As used in this subsection, the term "remotely accessed computer software" means computer software that a user accesses over the internet, over private or public networks, or through wireless media, where the user has only the right to use or access the software by means of a license, lease, subscription, service or other agreement. Notwithstanding the foregoing exclusions of certain types of computer software from the definition of tangible personal property, tangible personal property shall include computer software that constitutes digital music, digital books, digital videos and digital games when the purchaser has a permanent right to use such software and, regardless of the method by which the title, possession or right to use such software is transferred to the user of delivery or access. If the right to use digital music, digital books, digital videos or digital games is conditioned upon continued payment from the purchaser it is not a permanent right of use. As used in this subsection, the term "~~digital videos~~" means ~~prerecorded video products and shall not include live broadcasts, television or cable broadcasts or video conferencing products.~~

(i) As used in this subsection, the term "computer software" means any computer program, part of a program or any sequence of instructions for automatic data processing equipment or information stored in an electronic medium.

(ii) As used in this subsection, the term "custom computer program" means any computer software, as defined in this subsection, which is written or prepared exclusively for a customer and includes those services represented by separately stated charges for the modification of existing prewritten programs when the modifications are written or prepared exclusively for a customer. The term does not include a "canned" or prewritten program which is held or existing for general or repeated sale, lease or license, even if the program was initially developed on a custom basis or for in-house use. Modification to an existing prewritten program to meet the customer's needs is custom computer programming only to the extent of the modification, and only to the extent that the actual amount charged for the modification is separately stated on invoices, statements, and other billing documents supplied to the purchaser.

(c) The term "tangible personal property" does not include advertising space when sold to an advertiser or its agent by the publisher of the newspaper or the magazine in which the advertisement is displayed or circulated.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after April 1, 2015.

Approved March 30, 2015

#### CHAPTER 203

(H.B. No. 15, As Amended in the Senate, As Amended in the Senate)

#### AN ACT

RELATING TO MOTOR VEHICLES; AMENDING CHAPTER 5, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-523A, IDAHO CODE, TO PROVIDE FOR TITLE STOP REQUESTS WHEN OWNERSHIP OF A VEHICLE IS DISPUTED, TO PROVIDE A PROCEDURE, TO PROVIDE FOR A FEE, TO PROVIDE FOR VERBAL REQUESTS, TO AUTHORIZE THE IDAHO TRANSPORTATION DEPARTMENT TO PLACE A STOP ON THE TITLE RECORD OF A VEHICLE UNDER CERTAIN CONDITIONS, TO PROVIDE THAT THE DEPARTMENT SHALL PROCESS AN APPLICATION FOR A TITLE OR RECORD A LIEN OR ENCUMBRANCE EXCEPT UNDER CERTAIN CIRCUMSTANCES, TO REQUIRE THE REQUESTING PARTY TO PROVIDE CERTAIN EVIDENCE ONCE THE TITLE STOP IS PLACED BY THE DEPARTMENT, TO PROVIDE FOR CANCELLATION OF A TITLE STOP IN THE EVENT EVIDENCE IS NOT PROVIDED, TO PROVIDE FOR NOTICE, TO PROVIDE FOR THE DURATION OF THE TITLE STOP, TO PROVIDE THAT A PERSON MAY FILE EVIDENCE THAT THE PERSON HAS ACQUIRED TITLE TO A VEHICLE FOR WHICH A TITLE STOP HAS BEEN PLACED, TO PROVIDE FOR NOTICE, TO PROVIDE FOR THE RELEASE OF A TITLE STOP UNDER CERTAIN CONDITIONS, TO PROVIDE THAT NO TITLE APPLICATIONS FOR THE VEHICLE SHALL BE PROCESSED DURING THE PENDENCY OF THE TITLE STOP, TO PROVIDE FOR TITLE STOPS REQUESTED BY GOVERNMENTAL AGENCIES AND TO PROVIDE FOR APPLICABILITY.

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

SECTION 1. That Chapter 5, 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 49-523A, Idaho Code, and to read as follows:

49-523A. TITLE STOP WHEN OWNERSHIP OF VEHICLE DISPUTED. (1) Whenever a party claims an interest in a vehicle subject to a title, the party may request a title stop be placed upon the title record of the vehicle.

(2) The request for title stop shall be provided to the department, together with documentation supporting the request and the fee required pursuant to the provisions of section 49-202(2)(i), Idaho Code.

(3) A verbal request to the department for a title stop may be placed on the title record for up to five (5) business days upon advising the requestor of the requirements and giving the requestor time to send the written request. Failure to send the written request shall terminate the request at the end of the five (5) business days.

(4) Upon receipt of the request for title stop, the department may place a stop on the title record of the subject vehicle if it appears from the documentation provided that there exists a reasonable dispute as to the ownership of the vehicle.

(5) Notwithstanding the placement of a stop or the filing of a stop request, the department shall process an application for title accompanied by a properly completed affidavit of repossession, or to record a lien or encum-



brance, unless the requestor of the stop has provided the department with a court order restraining the issuance of title. In all other applications for title, the department shall place or maintain a stop and shall notify the title applicant that a stop is in place.

(6) Once the title stop is placed by the department, the requesting party shall provide evidence of a judicial filing relating to the subject vehicle within thirty (30) days of the title stop becoming effective. Failure to provide such evidence shall result in the department's cancellation of the title stop.

(a) Upon receipt of a written request for a title stop and the required fee, the department shall send notice of the title stop to the titled owners and any other party with recorded interest or lienholder recorded on the title records of the department.

(b) Upon receipt by the department of satisfactory evidence of a judicial filing, the title stop shall remain in place until a final order of the judicial proceeding is received, the requesting party has instructed the department to remove the stop, the requesting party has failed to respond to notice under paragraph (c) of this subsection or for one (1) year, unless renewed by the requestor, whichever comes first.

(c) Except as provided in subsection (5) of this section, if a person files evidence with the department that the person has acquired title to the vehicle for which a title stop has been placed, then the department shall send notice to the original requesting party providing ten (10) business days from the date notice was mailed to object to the release of the title stop. If the department does not receive timely response from the requesting party or if the requesting party instructs the department to remove the stop, then the title stop shall be immediately released.

(7) During the pendency of the title stop, no title applications for the vehicle to which the stop pertains shall be processed by the department except as otherwise provided in this section.

(8) Title stops requested by a governmental agency shall be exempt from the provisions of subsection (6) of this section. Such title stop shall be valid for two (2) years, unless renewed by the governmental agency requesting the stop. Governmental agencies shall be exempt from the fee required in section 49-202(2)(i), Idaho Code.

(9) The provisions of this section shall be effective for any title stop received on and after July 1, 2015.

Approved April 1, 2015

CHAPTER 204  
(H.B. No. 99)

AN ACT

RELATING TO BANKING; REPEALING SECTION 26-304, IDAHO CODE, RELATING TO BANK FACILITIES POWERS; REPEALING SECTION 26-308, IDAHO CODE, RELATING TO PRIORITY FOR BANK FACILITIES; REPEALING SECTION 26-310, IDAHO CODE, RELATING TO AN INVESTIGATION FEE; REPEALING SECTION 26-508, IDAHO CODE, RELATING TO REMOVAL OF DIRECTORS, OFFICERS, OR EMPLOYEES; REPEALING SECTION 26-509, IDAHO CODE, RELATING TO ENGAGING IN UNSAFE OR UNSOUND PRACTICES; REPEALING SECTION 26-1108, IDAHO CODE, RELATING TO FAILURE TO TRANSMIT REPORTS; REPEALING SECTION 26-1117, IDAHO CODE, RELATING TO THE POWER OF THE COURT TO GRANT RELIEF; REPEALING SECTION 26-1716, IDAHO CODE, RELATING TO CEASE AND DESIST BY BANKS; REPEALING SECTION 26-2609, IDAHO CODE, RELATING TO PENALTIES; REPEALING SECTION 26-3603, IDAHO

CODE, RELATING TO ADMINISTRATIVE ORDERS; REPEALING SECTION 26-3606, IDAHO CODE, RELATING TO REMOVAL OF DIRECTORS, OFFICERS AND EMPLOYEES; AMENDING SECTION 26-106, IDAHO CODE, TO ADD AND REVISE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 26-202, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE AUTHORIZATION NECESSARY TO DO BUSINESS; AMENDING SECTION 26-209, IDAHO CODE, TO REVISE THE TIME OF THE ANNUAL MEETING; AMENDING SECTION 26-211, IDAHO CODE, TO REVISE STOCK TRANSFER REQUIREMENTS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 26-301, IDAHO CODE, TO REVISE REQUIREMENTS FOR BRANCH BANKS; REPEALING SECTION 26-302, IDAHO CODE, RELATING TO AUTHORIZATION FOR ESTABLISHMENT OF BANK FACILITIES; AMENDING CHAPTER 3, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-302, IDAHO CODE, TO PROVIDE FOR THE ESTABLISHMENT OF LOAN PRODUCTION OFFICES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 26-303, IDAHO CODE, TO REVISE PROVISIONS RELATING TO LOAN PRODUCTION OFFICES AND MOBILE AND TEMPORARY FACILITIES; AMENDING SECTION 26-305, IDAHO CODE, TO REVISE PROVISIONS RELATING TO RESPONSIBILITY OF A BANK; AMENDING SECTION 26-306, IDAHO CODE, TO REVISE PROVISIONS RELATING TO MOBILE OR TEMPORARY FACILITIES; AMENDING SECTION 26-707, IDAHO CODE, TO REVISE PROVISIONS RELATING TO REAL ESTATE HOLDINGS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 26-1104, IDAHO CODE, TO REVISE PROVISIONS RELATING TO FEES; REPEALING SECTION 26-1114, IDAHO CODE, RELATING TO REMOVAL OF DIRECTORS, OFFICERS, OR EMPLOYEES; AMENDING CHAPTER 11, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-1114, IDAHO CODE, TO PROVIDE FOR THE SUSPENSION OR REMOVAL OF DIRECTORS, OFFICERS OR EMPLOYEES AND TO PROHIBIT FUTURE EMPLOYMENT IN CERTAIN CIRCUMSTANCES; REPEALING SECTION 26-1115, IDAHO CODE, RELATING TO ENGAGING IN UNSAFE OR UNSOUND PRACTICES; AMENDING CHAPTER 11, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-1115, IDAHO CODE, TO PROVIDE FOR CEASE AND DESIST ORDERS AND PENALTIES; REPEALING SECTION 26-1116, IDAHO CODE, RELATING TO CIVIL ENFORCEMENT; AMENDING CHAPTER 11, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-1116, IDAHO CODE, RELATING TO CIVIL ENFORCEMENT; REPEALING SECTION 26-1202, IDAHO CODE, RELATING TO ADVERTISING BY UNAUTHORIZED BANK; AMENDING CHAPTER 12, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-1202, IDAHO CODE, TO PROVIDE FOR UNAUTHORIZED USE OF A NAME AND WAIVER BY THE DIRECTOR OF THE DEPARTMENT OF FINANCE; AMENDING SECTION 26-1219, IDAHO CODE, TO REVISE PROVISIONS RELATING TO ADVERTISING OF BRANCHES; AMENDING SECTION 26-1602, IDAHO CODE, TO REVISE PROVISIONS RELATING TO STATEMENT OF PURPOSE; AMENDING SECTION 26-1604, IDAHO CODE, TO REVISE PROVISIONS REGARDING MERGER AND BRANCHING APPROVAL; AND AMENDING SECTION 26-1605, IDAHO CODE, TO REVISE CONDITIONS WHERE THE DIRECTOR OF THE DEPARTMENT OF FINANCE SHALL NOT APPROVE THE ACQUISITION OF A BANK.

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

SECTION 1. That Sections 26-304, 26-308, 26-310, 26-508, 26-509, 26-1108, 26-1117, 26-1716, 26-2609, 26-3603 and 26-3606, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Section 26-106, Idaho Code, be, and the same are hereby amended to read as follows:

26-106. DEFINITIONS. As used in this act, unless the context or subject matter otherwise requires:

(1) "Bank" means any person engaged in soliciting, receiving or accepting money or its equivalent on deposit as a regular business whether or not such deposit, however evidenced, is made subject to check or draft or other order.

(2) "Banking business" means the soliciting, receiving or accepting of money or its equivalent on deposit as a regular business whether such deposit is made subject to check or draft or is evidenced by a certificate of deposit, a passbook, a note, a receipt, or other writing; provided, that nothing herein shall apply to or include money or its equivalent left in escrow or left with an agent pending investment in real estate or securities for or on account of his principal.

(3) ~~"Banking facility" means a place of business of a bank which performs activities limited to:~~

~~(a) Taking applications for loans, accepting deposits, issuing receipts therefor, and transmitting such deposits to the bank maintaining such facility;~~

~~(b) Carrying and disbursing cash change, cashing checks, accepting checks;~~

~~(c) Issuing checks drawn on or certified by the bank operating the facility, renting safety deposit boxes, keeping necessary accounts of all transactions; and carrying out such other transactions as the director may allow by regulation.~~

(4) "Bank service corporation" means a corporation organized to perform bank services for two (2) or more banks, each of which owns part of the capital stock of such corporation, and which are subject to examination by either the department of finance of the state of Idaho or a federal bank supervisory agency.

For the purpose of this definition, "bank services" means services such as check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or any other clerical, bookkeeping, accounting, statistical, or similar functions performed for a bank.

(54) "Borrowing" means any nondeposit liability.

(65) "Branch" means any location except a ~~bank facility or loan production office, mobile or temporary facility,~~ customer-bank communication terminal or bank service corporation at which a bank performs any or all functions of a bank.

(76) "Capital" means the amount of unimpaired paid-up common stock plus the amount of paid-up preferred stock issued and unimpaired.

(87) "Capital note" means a convertible or nonconvertible note of a bank subordinated as to principal and interest to the depositors of the bank and containing such conditions as the director may require.

(98) "Capital structure" means the total of the capital, surplus, undivided profits and subordinated capital notes and contingency reserves of the bank or such other account as determined by the director of the department of finance, less intangible assets.

(109) "Common stock" means the stock of a banking corporation other than preferred stock.

(110) "Commercial paper" means a short-term negotiable instrument arising out of a commercial transaction; provided, however, that commercial paper shall not be construed to be a deposit as defined in this act.

(121) "Converting bank" means a bank converting from a state to a national bank, or the reverse.

(132) "Demand deposit" means all deposits except time deposits.

(143) "Deposit" means the act of placing or lodging money in the custody of a person, for safety or convenience whether interest-bearing or not, to be withdrawn at the will of the depositor or under rules, terms and regulations agreed upon by the depositor and the depository. If the context requires, deposit may also mean the money so deposited or the credit the depositor receives for it.

(154) "Depositor" means any person who deposits money.

(165) "Director" means the director of the department of finance.

(176) "Dissenting stockholder" means a stockholder dissenting and voting his dissent as provided in this act.

(187) "Executive officer" means each officer of a bank, who by virtue of his position, has both voice in the formulation of the policy of the bank and responsibility for the implementation of such policy.

(198) "Federal funds" means member bank deposits at federal reserve banks.

(2019) "Federal reserve act" means and includes the act of congress of the United States approved December 23, 1913, as amended.

(210) "Federal reserve bank" means a federal reserve bank created and organized under the authority of the Federal Reserve Act.

(221) "Federal reserve board" means the board of governors of the Federal Reserve System created and described in the Federal Reserve Act.

(232) "Federal bank supervisory agency" means the comptroller of the currency, the board of governors of the Federal Reserve System, or the board of directors of the Federal Deposit Insurance Corporation.

(243) "Fiduciary" means trustee, agent, executor, administrator, personal representative, committee, guardian or conservator for a minor or other incompetent person, receiver, trustee in bankruptcy, assignee for creditors or any holder of a similar position of trust.

(24) "Home state" means:

(a) With respect to a state chartered bank, the state from which the bank received the charter under which it operates.

(b) With respect to a national bank, the state in which the main office of the national bank is located.

(25) "Host state" means, with respect to any bank, a state other than the home state of the bank in which the bank maintains or seeks to establish and maintain a branch.

(256) "Member bank" means any national bank or state bank which has become or which becomes a member of one (1) of the federal reserve banks created by the Federal Reserve Act.

(267) "Merger" means the union of two (2) or more bank corporations by the transfer of property of all to one (1) of them. As used in this act, "merger" includes a consolidation.

(278) "Merging bank" means a party to a merger.

(289) "Mobile or temporary facility" means a banking facility which is moved from place to place and not permanently attached to real property place of business of a bank from which the bank performs limited activities for limited periods of time.

(2930) "National bank" means a bank organized under the laws of the United States and issued an organization certificate by the comptroller of the currency.

(301) "Net demand deposits" means the total of the bank's demand deposits after subtracting from the deposit balance due to any bank the deposit balance due from the same bank (other than trust funds deposited by either bank) and any cash items in the process of collection due from or due to such banks shall be included in determining such net balance, except that balances of time deposits of any bank and any balances standing to the credit of private banks, of banks in foreign countries, of foreign branches of other American banks, and of American branches of foreign banks shall be reported gross without any such subtraction, and excluding any deposits received in any office of the bank for deposits in any other office of the bank. The amount of trust funds held in the bank's own trust department, which the bank keeps segregated and apart from its general assets and does not use in the conduct of its business, shall not be included as net deposits.

(312) "Net profits" means profits remaining after the deduction of all expenses including depreciation, losses, or doubtful assets, as required by

the director of the department of finance, interest, and taxes accrued or due.

(323) "Person" means an individual, sole proprietorship, partnership, joint venture, association, trust, estate, business trust, corporation, limited liability company, not-for-profit corporation, sovereign government or agency, instrumentality, or political subdivision thereof, or any similar entity or organization.

(334) "Preferred stock" means a class of the stock of a banking corporation issued in accordance with section 26-206, Idaho Code, which is accorded a preference or priority over the common stock of the corporation.

(345) "Resulting bank" means the bank resulting from a merger or conversion.

(356) "Savings deposit" means a deposit:

(a) That consists of funds deposited to the credit of or in which the entire beneficial interest is held by one (1) or more individuals, or a corporation, association, or other organization operated primarily for religious, philanthropic, charitable, educational, fraternal, or other similar purposes and not operated for profit; or that consists of funds deposited to the credit of or in which the entire beneficial interest is held by the United States, any state of the United States, or any county, municipality, or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or political subdivision thereof; or that consists of funds deposited to the credit of, or in which any beneficial interest is held by a corporation, association, or other organization not qualifying above to the extent such funds do not exceed one hundred fifty thousand dollars (\$150,000) per such depositor at a bank; and

(b) With respect to which the depositor is not required by the deposit contract but may at any time be required by the bank to give notice in writing of an intended withdrawal not less than thirty (30) days before such withdrawal is made and which is not payable on a specified date or at the expiration of a specified time after the date of deposit.

(367) "State bank" means any bank chartered by the state of Idaho.

~~(37) "Temporary banking facility" means a banking facility which is operated for less than thirty (30) days and is established for the purpose of providing bank facility services for a specific occasion.~~

(38) "Time certificate of deposit" means a deposit evidenced by a negotiable or nonnegotiable instrument which provides on its face that the amount of such deposit is payable to bearer or to any specified person or to his order:

(a) On a certain date, specified in the instrument, not less than thirty (30) days ~~(30)~~ after the date of the deposit; or

(b) At the expiration of a certain specified time not less than thirty (30) days after date of the instrument; or

(c) Upon notice in writing which is actually required to be given not less than thirty (30) days before the date of repayment; and

(d) In all cases only upon presentation and surrender of the instrument.

(39) "Time deposit" means time certificates of deposit, time deposits open account, and savings deposits.

(40) "Time deposits open account" means a deposit, other than a time certificate of deposit, with respect to which there is in force a written contract with the depositor that neither the whole nor any part of such deposit may be withdrawn, by check or otherwise, prior to the date of maturity, which shall be not less than thirty (30) days after the date of the deposit, or prior to the expiration of the period of notice which must be given by the depositor in writing not less than thirty (30) days in advance of withdrawal.

(41) "Trust department" means the division of a bank which has been granted trust powers by the director of finance.

SECTION 3. That Section 26-202, Idaho Code, be, and the same is hereby amended to read as follows:

26-202. AUTHORIZATION NECESSARY TO DO BUSINESS. It shall be unlawful for any person to engage in or transact any banking business in this state except by means of a corporation duly organized for that purpose and chartered under the bank act. Corporations organized to engage in and transact banking business shall be formed by five (5) or more natural persons under the general business corporation laws of this state and as provided in the bank act.

Except as specifically authorized by this act, other laws of the state of Idaho, or federal law, no person except a national bank shall engage in or transact any banking business except as is incidental or necessarily preliminary to its organization without the written approval of the director and without his written charter stating that it has complied with the provisions of the bank act and all of the requirements of law and that it is authorized to transact banking business within the state. To obtain a charter the incorporators shall file with the director the following information:

- (a) ~~Five~~ (5) copies of its articles of incorporation<sub>7i</sub>;
- (b) ~~s~~Satisfactory proof of compliance with section 26-204, Idaho Code<sub>7i</sub>;
- (c) ~~t~~The names and addresses of its officers and directors<sub>7i</sub>;
- (d) ~~t~~The names and addresses of all subscribers to its common stock and the amounts subscribed by each<sub>7i</sub>;
- (e) ~~t~~The oath of each and every director as provided in section 26-213, Idaho Code<sub>7i</sub>;
- (f) ~~t~~The affidavit of its directors to the effect that said corporation has complied with all the provisions of the bank act required to authorize it to commence business<sub>7i</sub>; and
- (g) ~~s~~Such other information as the director may require in the form required by the director.

Upon filing of the foregoing, it shall be the duty of the department to examine and investigate into the condition of the corporation, ascertaining whether or not the capital has been paid in and whether the corporation has complied with all the provisions of the law required to entitle it to engage in the business of banking. The department shall also ascertain from the best sources of information at its command whether the character and general fitness of the persons named as subscribers and officers and directors are such that the bank may be operated in a safe, prudent and profitable manner and as to command the confidence of the community in which such bank is proposed to be located. ~~The department shall collect a fee on demand from the corporation which fee shall not be less than one hundred fifty dollars (\$150) or more than two thousand dollars (\$2,000) based upon the cost of such examination and investigation.~~ If upon such examination, and investigation, it appears that the corporation is lawfully entitled to commence banking business, and the directors and officers are competent to engage in banking business, and its subscribers are such as to command the confidence of the community, and if, in the opinion of the director the organization of the bank is justified, the director shall forthwith issue to the corporation a bank charter, under official seal.

If the director has reason to believe that the corporation has been formed for any other business than the legitimate banking business contemplated by the bank act or that the subscribers, officers and directors will not operate the bank in a safe, prudent and profitable manner, or that the bank will not have qualified experienced management with experience commensurate with the area where the bank is proposed to be located, he shall withhold such charter, and he may withhold the issuance of such charter to a corporation seeking to engage in banking business in an area which in his judgment does not justify or warrant a new or additional bank or could not support a profitable banking corporation.

~~No unit bank hereafter organized shall be permitted to be acquired for the purpose of establishing a branch banking office or a branch bank until it shall have been in operation as a unit bank for a period of five (5) years.~~

SECTION 4. That Section 26-209, Idaho Code, be, and the same is hereby amended to read as follows:

26-209. TIME OF ANNUAL MEETING. ~~The An~~ annual meeting of stockholders of a bank shall be held each year in the month of January, February, March or April. ~~Every bank shall, by bylaw, fix the day in such month for its annual meeting at the time and in the manner indicated in the bylaws.~~

SECTION 5. That Section 26-211, Idaho Code, be, and the same is hereby amended to read as follows:

26-211. STOCK-TRANSFERS. (1) The shares of stock of a bank shall be deemed personal property and shall be transferred on the books of the bank in such manner as the bylaws thereof shall direct.

(2) ~~All transfers of seven percent (7%) or more of the outstanding stock voting securities of a bank by sale, gift or otherwise shall be reported to the director thirty (30) days prior to such transfer and shall be approved by the director prior to such transfer if, immediately after the transfer, the acquiring person or persons acting in concert will own, control, or hold with power to vote ten percent (10%) or more of any class of voting securities of the bank. The director may disapprove a transfer of stock voting securities if he finds that the transferee has been removed from a position as a director, officer or employee of a bank or other financial institution pursuant to an order of a state or federal agency, has been convicted of a felony or if in his opinion the transferee does not satisfy the requirements of a stockholder, director or officer as set out in section 26-202, Idaho Code. The provisions of this subsection shall not apply to a voting trust existing prior to July 1, 1978.~~

~~(3) All transfers of stock shall be certified by the president of the bank or secretary of the board of directors to the department within twenty (20) days after such transfer.~~

SECTION 6. That Section 26-301, Idaho Code, be, and the same is hereby amended to read as follows:

26-301. BRANCH BANKS -- REQUIREMENTS. No bank shall maintain any branch bank except as hereinafter provided for in this act. Any bank organized and chartered under the laws of Idaho may, upon written application to and with the approval of the director, establish and operate one (1) or more branches banks for the transaction of its business at any location. Any such bank may establish and operate a branch in a state other than Idaho, provided that the bank shall comply with all applicable provisions of Idaho law, the law of the other state and federal law. Any bank organized and chartered under the laws of another state or under federal law may establish and operate one (1) or more branches in Idaho as permitted by chapter 16, title 26, Idaho Code, and federal law.

SECTION 7. That Section 26-302, Idaho Code, be, and the same is hereby repealed.

SECTION 8. That Chapter 3, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-302, Idaho Code, and to read as follows:

26-302. ESTABLISHMENT OF LOAN PRODUCTION OFFICES AUTHORIZED. A bank may, after providing notice to the director, establish and maintain one (1) or more loan production offices at any location in the state of Idaho.

(1) A loan production office when so established may conduct any of the following activities:

- (a) Solicit loans on behalf of the bank;
- (b) Provide information on loans, rates and terms;
- (c) Accept loan applications and supporting documents;
- (d) Review and process loan applications for compliance with underwriting standards and completeness of documents;
- (e) Approve loan applications;
- (f) Conduct loan closing activities, such as the execution of promissory notes and deeds of trust; and
- (g) Engage in other loan production office activities that the bank's primary state or federal regulator has approved for banks subject to its supervision.

(2) A loan production office shall not have the power to solicit, receive or accept money or its equivalent on deposit, or disburse loan funds to customers.

(3) A bank that desires to establish a loan production office in this state shall provide written notice to the director of its intent to do so no later than thirty (30) days prior to opening the loan production office. The notice to the director shall provide the following information:

- (a) The name of the bank and address of the main office;
- (b) The city and street address of the loan production office;
- (c) The activities proposed to be conducted at the loan production office, including the types of loans to be solicited and originated at the office; and
- (d) Any additional relevant information required by the director.

(4) Following a bank's establishment of a loan production office in this state, a bank shall give notice to the director of any relocation or closure of the office, the date of the relocation or closure and the disposition of any records previously maintained at the loan production office.

(5) Each loan production office shall be subject to examination and supervision by the director in the same manner and to the same extent as the bank.

(6) A state bank may establish and operate a loan production office in a state other than Idaho, provided that the bank shall comply with all applicable provisions of Idaho law, the law of the other state where the loan production office will be located and federal law.

(7) Each loan production office operating in Idaho on July 1, 2015, shall provide written notice to the director containing the information required in subsection (3) of this section on or before August 1, 2015.

SECTION 9. That Section 26-303, Idaho Code, be, and the same is hereby amended to read as follows:

26-303. SECTION CONCERNING BRANCH BANKS UNAFFECTED ~~---BANK FACILITY CONSTRUED~~. The sections of this chapter relating to bank loan production offices and mobile or temporary facilities shall not be construed to modify or repeal section 26-301, Idaho Code, and the terms bank "loan production office," "mobile facility" and "temporary facility" as used in the bank act shall not be construed to mean branch bank.

SECTION 10. That Section 26-305, Idaho Code, be, and the same is hereby amended to read as follows:

26-305. RESPONSIBILITIES OF BANK. Any bank establishing a bank loan production office or mobile or temporary facility shall be responsible for



all transactions of the loan production office or mobile or temporary facility, and for keeping accounts and books covering all business transactions of the loan production office or mobile or temporary facility at its nearest branch bank or as the director shall, by regulation, require.

SECTION 11. That Section 26-306, Idaho Code, be, and the same is hereby amended to read as follows:

26-306. MOBILE OR TEMPORARY FACILITY. Mobile facilities or temporary facilities may be established with the approval of the director and under such conditions as the director may establish ~~by regulation. Mobile facilities may be operated only in communities in which no bank, branch bank or bank facility exists.~~

SECTION 12. That Section 26-707, Idaho Code, be, and the same is hereby amended to read as follows:

26-707. REAL ESTATE HOLDINGS. A bank may purchase, acquire, hold and convey real estate for the following purposes only:

(1) Such as shall be necessary for the convenient transaction of its business, including at the same location as its banking offices other property to rent as a source of income; provided, however, that no bank shall invest in buildings and lots and furniture, fixtures and equipment in an amount greater than fifty percent (50%) of the capital structure of such bank.

(2) Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of business.

(3) Such as it shall purchase at sale on judgments, decrees, mortgage foreclosure or trustees sale for debts previously contracted, but a bank shall not bid at such sale a larger amount than is necessary to satisfy all debts and costs necessary to obtain clear title. ~~Such~~ Real estate acquired for debts previously contracted shall be carried on the books of the bank at the lower of cost or market value. Market value shall be determined by:

(a) a current An appraisal prepared by an independent qualified a state certified or licensed appraiser approved by the director; or

(b) An appropriate evaluation when the recorded investment is equal to or less than two hundred fifty thousand dollars (\$250,000).

If a bank has a valid appraisal or an appropriate evaluation that was previously obtained in connection with a real estate loan, a new appraisal or evaluation is not required at the time the bank acquires the property to determine the market value of real estate acquired for debts previously contracted. A bank may defer obtaining an appraisal or evaluation for a period not to exceed three (3) months following acquisition of the real estate if the bank documents a reasonable expectation that a sale of the real estate, other than in a transaction involving an affiliated party, will be consummated during a period of three (3) months following the acquisition of the property. If the property is not sold during the expected three (3) month period, a new appraisal or appropriate evaluation as set forth in paragraphs (a) and (b) of this subsection must be obtained. Thereafter, but no more frequently than annually, the director may in his discretion request that the bank obtain from an independent qualified appraiser approved by the director, a further appraisal of market value or certification by the appraiser that the market value has not declined require an appraisal or evaluation if the director believes it is necessary to address safety and soundness concerns. A bank shall develop and maintain prudent real estate appraisal and evaluation policies and procedures to monitor the market value of real estate acquired for debts previously contracted, in accordance with applicable real estate appraisal and evaluation guidelines.

(4) No real estate acquired under subsections (2) and (3) of this section may be held for a longer period than five (5) years, provided, however,

that upon application by the bank, the director shall approve the continued holding of any such real estate by the bank for an additional period of five (5) years upon the bank's showing of its good faith attempt to dispose of the real estate within the first five (5) year period, or that disposal within the first five (5) year period would be detrimental to the bank; and provided further that the bank shall, during the second five (5) year period, at the end of each year beginning at the end of the sixth year in which the property is held, write down the value of such real estate by twenty percent (20%) of the value at which such real estate is carried on its books at the beginning of the second five (5) year period. Value at the beginning of the second five (5) year period shall be the lower of cost or market value as determined pursuant to appraisal as provided in subsection (3) of this section. Nothing in this section shall be construed to prevent a bank from making loans secured by real estate as provided in this act, or a trust department holding and conveying real estate in trust.

(5) A bank may, with the approval of the director and the board of governors of the Federal Reserve System or the Federal Deposit Insurance Corporation invest in bank premises or in the stock, bonds, debentures, or other obligations of any corporation holding the banking buildings, lots and furniture, fixtures and equipment of such bank in an amount not to exceed the capital and surplus of the bank.

SECTION 13. That Section 26-1104, Idaho Code, be, and the same is hereby amended to read as follows:

26-1104. FEES. (1) On January 15 of each year, the director shall fix and collect from each state bank a fee based upon the amount of the total assets of the bank as of December 31 of the preceding calendar year, which fees shall not exceed the amounts set forth in the following schedule:

TOTAL ASSETS	MAXIMUM FEE
\$0 to \$1 million . . . . .	\$1,500 Flat Fee
\$1 million to \$10 million . . . . .	\$2,000 + \$.25 per thousand dollars of assets in excess of \$1 million
\$10 million to \$50 million . . . . .	\$4,250 + \$.19 per thousand dollars of assets in excess of \$10 million
\$50 million to \$100 million . . . . .	\$11,850 + \$.12 per thousand dollars of assets in excess of \$50 million
\$100 million to \$500 million . . . . .	\$17,850 + \$.10 per thousand dollars of assets in excess of \$100 million
\$500 million to \$1 billion . . . . .	\$57,850 + \$.09 per thousand dollars of assets in excess of \$500 million
\$1 billion to \$3 billion . . . . .	\$102,850 + \$.08 per thousand dollars of assets in excess of \$1 billion
\$3 billion to \$10 billion . . . . .	\$262,850 + \$.07 per thousand dollars of assets in excess of \$3 billion
\$10 billion to \$20 billion . . . . .	\$369,425 + \$.03 per thousand dollars of assets in excess of \$10 billion
\$20 billion and over . . . . .	\$689,425 + \$.02 per thousand dollars of assets in excess of \$20 billion

(2) In addition to the foregoing each state bank shall pay to the director an additional sum not to exceed one hundred dollars (\$100) for each office and branch office maintained by said bank. The director shall collect from each bank for each special examination of its condition an amount suffi-

cient to reimburse the director for the actual expenses incurred in connection therewith.

~~(3) For banks operating in Idaho with a home state other than Idaho, the director shall, in his discretion, set annual fees on any basis, provided that such fees shall not be higher than if only the branches operating solely in Idaho were considered in making the fee calculation. Under this subsection (3), the director, in his discretion, shall adjust annual fees according to the level of participation of the department of finance in the supervision process, subject to the maximum fee provided in subsection (1) of this section~~ The director may, in his discretion, assess state banks and state bank holding companies for the review, analysis and investigation of an application to:

(a) Charter or incorporate a bank or bank holding company;

(b) Establish a branch or office;

(c) Merge with, acquire, or be acquired by, another bank or bank holding company located in or outside of Idaho; and

(d) Convert to an entity other than a state bank or bank holding company.

~~(4) For banks chartered under this act with branches in states other than Idaho pursuant to chapter 16, title 26, Idaho Code, the director shall, in his discretion, set annual fees on any basis, provided that such fees shall not be any higher than if the branches operated outside Idaho were not a factor in the fee calculation~~ For banks operating in Idaho with a home state other than Idaho the director may, in his discretion, enter into a cooperative agreement with the home state supervisor of the bank to assess supervisory fees on the bank. The fees may include assessments, examination fees, branch fees, license fees and all other fees that are levied by the director on state banks. If such agreement has been entered, the director may, in his discretion, assess supervisory fees on banks operating in Idaho with home states other than Idaho.

(5) All fees, fines, examination and miscellaneous charges collected by the director pursuant to the Idaho bank act shall be deposited into the finance administrative account pursuant to section 67-2702, Idaho Code.

SECTION 14. That Section 26-1114, Idaho Code, be, and the same is hereby repealed.

SECTION 15. That Chapter 11, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-1114, Idaho Code, and to read as follows:

26-1114. SUSPENSION OR REMOVAL OF DIRECTORS, OFFICERS OR EMPLOYEES -- PROHIBITION OF FUTURE EMPLOYMENT. (1) The director of the department of finance may issue a written order suspending or removing a director, officer or employee of a bank, bank holding company or trust institution, upon finding that the director, officer or employee:

(a) Has been dishonest or reckless in the performance of his official duties;

(b) Has breached his fiduciary duties to the bank, bank holding company or trust institution, in a manner that is likely to cause substantial loss to or seriously weaken the bank, bank holding company or trust institution;

(c) Has violated any provision of this title, any state or federal law or regulation pertaining to the business of the bank, bank holding company, or trust institution, or any order of the director of the department of finance;

(d) Has been convicted of any felony or a misdemeanor involving theft or dishonesty; or

(e) Has engaged or participated in any unsafe or unsound practice in the conduct of the affairs of the bank, bank holding company or trust institution.

The order shall be issued pursuant to chapter 52, title 67, Idaho Code.

(2) In the event a director, officer or employee has been removed from office as set forth in this section, and the order has not been modified, rescinded or set aside, or if a person has been removed as a director, officer or employee of a bank, bank holding company or trust institution by a federal financial institution regulator or a financial institution regulator in another state, the person is prohibited from becoming employed by a bank, bank holding company or trust institution supervised by the director of the department of finance in this state, except as specifically permitted by the director of the department of finance.

SECTION 16. That Section 26-1115, Idaho Code, be, and the same is hereby repealed.

SECTION 17. That Chapter 11, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-1115, Idaho Code, and to read as follows:

26-1115. CEASE AND DESIST ORDERS -- PENALTIES. (1) If the director of the department of finance finds that any bank, bank holding company or trust institution has engaged or is about to engage in an unsafe or unsound practice in conducting the business of such bank, bank holding company or trust institution, or any person has violated or is about to violate any provision of this act, any rule or order issued under the act, any condition imposed in writing by the director, or any written agreement entered into with the director, the director may order the bank, bank holding company, trust institution or other person to cease and desist from any such violation or practice. The order shall be issued pursuant to chapter 52, title 67, Idaho Code.

(2) After providing a notice and an opportunity for a public hearing pursuant to chapter 52, title 67, Idaho Code, the director of the department of finance may assess against and collect a civil money penalty from any bank, bank holding company or trust institution that, or from any executive officer, director, employee, agent or other person participating in the conduct of the affairs of such bank, bank holding company or trust institution who:

(a) Engages or participates in any unsafe or unsound practice in connection with a bank, bank holding company or trust institution; or

(b) Violates or knowingly permits any person to violate any of the provisions of:

(i) The Idaho bank act;

(ii) Any rule promulgated pursuant to the Idaho bank act; or

(iii) Any lawful order of the director of the department of finance issued pursuant to the Idaho bank act.

(3) The civil money penalty shall not exceed one thousand dollars (\$1,000) per day for each day such violation continues. No civil money penalty shall be assessed for the same act or practice if another government agency has taken similar action against the bank, bank holding company or trust institution, or person to be assessed such civil money penalty. In determining the amount of the civil money penalty to be assessed, the director of the department of finance shall consider:

(a) The good faith of the bank, bank holding company, trust institution or person to be assessed with such civil money penalty;

(b) The gravity of the violation;

(c) Any previous violations by the bank, bank holding company, trust institution or person to be assessed with such civil money penalty;

(d) The nature and extent of any past violations; and

(e) Such other matters as the director of the department of finance may deem appropriate.

(4) Upon waiver by the respondent of the right to a public hearing concerning an assessment of a civil money penalty, the hearing or portions thereof may be closed to the public when concerns arise about prompt withdrawal of moneys from or the safety and soundness of the bank, bank holding company or trust institution.

(5) For the purposes of this section, a violation shall include, but is not limited to, any action by any person alone or with another person that causes, brings about, or results in the participation in, counseling of or aiding or abetting of a violation.

(6) The director of the department of finance may modify or set aside any order assessing a civil money penalty.

(7) Failure by a trust institution to comply with an order issued under this section within a reasonable time as the director prescribes is grounds for suspension or revocation of its charter or license issued under this act.

SECTION 18. That Section 26-1116, Idaho Code, be, and the same is hereby repealed.

SECTION 19. That Chapter 11, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-1116, Idaho Code, and to read as follows:

26-1116. CIVIL ENFORCEMENT. Whenever it appears to the director that any bank, bank holding company or trust institution has engaged or is about to engage in an unsafe or unsound practice in conducting the business of such bank, bank holding company or trust institution, or any person has violated or is about to violate any provision of this act, any rule or order issued under the act, any condition imposed in writing by the director, or any written agreement entered into with the director, the director may, in his discretion, bring an action in any court of competent jurisdiction, and upon a showing of any unsafe or unsound practice, or violation, shall be granted any or all of the following:

(1) A writ or order restraining or enjoining, temporarily or permanently, any unsafe or unsound practice, or violation of any provision of this act, any rule or order issued under the act, any condition imposed in writing by the director, or any written agreement entered into with the director;

(2) An order granting a declaratory judgment;

(3) An order for disgorgement and other equitable remedies;

(4) An order appointing a receiver or conservator for the defendant or the defendant's assets;

(5) An order that the person engaged in the unsafe or unsound practice, or violating any provision of this act, any rule or order issued under the act, any condition imposed in writing by the director or any written agreement entered into with the director shall pay a civil penalty to the department in an amount not to exceed twenty-five thousand dollars (\$25,000) for each violation;

(6) An order allowing the director to recover costs that may include investigative expenses and attorney's fees.

SECTION 20. That Section 26-1202, Idaho Code, be, and the same is hereby repealed.

SECTION 21. That Chapter 12, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-1202, Idaho Code, and to read as follows:

26-1202. UNAUTHORIZED USE OF NAME -- WAIVER BY DIRECTOR. (1) With the exception of the persons defined in subsection (2) of this section, no person may advertise or transact business in this state under a name or title that contains the word "bank," "banker," "bancorp," "savings bank," "trust company," or a word or words of similar import, unless the person has been granted a charter to engage in banking or trust business in this state by the director, or unless the director has granted the person a waiver from this prohibition as set forth in this section.

(2) The foregoing prohibition shall not apply to a national bank, federal thrift or federal savings bank, bank holding company or a state-chartered bank or trust company located in another state that has obtained all approvals that may be required under the law as a prerequisite to doing business in this state.

(3) The director may grant a waiver to allow the use of the word "bank," "banker," "bancorp," "savings bank," "trust company" or a word or words of similar import if:

(a) The person is not engaged in banking or trust business;

(b) The name or title used is not likely to deceive or mislead an individual to believe that the person is engaged in banking or trust business;

(c) The name or title, or a name or title similar to it, is not already used by another person doing business in this state; and

(d) The name or title does not suggest or imply that the person is engaged in unlawful conduct.

(4) Should the director grant a waiver as set forth in subsection (3) of this section, the director may condition or restrict the use of the name or title as he finds necessary in order to protect the public.

(5) In the event the use of a name or title is prohibited as set forth in this section and that none of the exceptions set forth in subsection (2) of this section apply, and the director has not granted a waiver to the prohibition as set forth in subsection (3) of this section, the Idaho secretary of state shall not be obligated to file any documents, records, articles or certificates that the person using or desiring to use the prohibited name or title requests the Idaho secretary of state to file.

(6) Any person who willfully violates the foregoing prohibition is guilty of a felony.

SECTION 22. That Section 26-1219, Idaho Code, be, and the same is hereby amended to read as follows:

26-1219. ADVERTISING BRANCHES. It shall be unlawful for any bank to advertise that a branch office will be established or available for bank customers until a branch charter has been issued by the director for that branch office under the provisions of chapter 3, title 26, Idaho Code. It shall be unlawful for any person or group of persons to advertise that a unit bank will be established until approval for a bank charter has been issued by the director under the provisions of chapter 2, title 26, Idaho Code. ~~A bank or person found guilty of a violation of the provisions of this section shall be fined not more than five thousand dollars (\$5,000).~~

SECTION 23. That Section 26-1602, Idaho Code, be, and the same is hereby amended to read as follows:

26-1602. STATEMENT OF PURPOSE. It is the policy of the state of Idaho to allow out-of-state banks, chartered either by other states or by the federal government, ~~by merger with an existing Idaho bank,~~ to branch within the state of Idaho on the terms and conditions set out in this chapter, and chapter 3, title 26, Idaho Code, and federal law; further, it is the policy of the state of Idaho to allow banks chartered by or located in this state to establish, operate, and maintain branches in other states in any manner authorized by this act, the law of such other states, and federal law. It is an express purpose of this chapter to authorize mergers between banks in Idaho and banks located in other states ~~as contemplated by section 44(a)(3)(A) of the federal deposit insurance act, as amended in 1994.~~

SECTION 24. That Section 26-1604, Idaho Code, be, and the same is hereby amended to read as follows:

26-1604. MERGER AND BRANCHING APPROVAL. (1) A bank whose home state is a state other than Idaho may acquire control of, acquire all or substantially all part of the assets of, or merge with a bank whose home state is Idaho. Except as authorized in this chapter, ~~or section 26-311 chapter 3, title 26, Idaho Code, or federal law,~~ no bank, the home state of which is a state other than Idaho, may establish or maintain an office or branch in this state, or conduct the business of banking in this state.

~~(2) A bank whose home state is Idaho may not enter into any transaction the result of which would be the acquisition of a branch or branches of the bank with an out-of-state bank without the acquisition of all or substantially all of the assets of the preexisting Idaho bank; provided that, in the event that a bank is required by the federal government to divest one (1) or more branches in connection with an interstate transaction, such branches may be sold to financial institutions located in Idaho subject to the approval of the director.~~

~~(3) A bank whose home state is Idaho may acquire control of, acquire all or substantially all part of the assets of, or merge with a bank whose home state is a state other than Idaho. Except as authorized in this chapter, chapter 3, title 26, Idaho Code, or federal law, no bank, the home state of which is Idaho, may establish or maintain an office or branch in other states.~~

(3) A bank whose home state is a state other than Idaho may establish a branch in Idaho if the bank's primary federal regulator and home state regulator have approved the bank's application to do the same. At least thirty (30) days prior to opening a branch in Idaho, a bank whose home state is a state other than Idaho shall:

(a) Provide a copy of its branch application to the director;

(b) File or register with the Idaho secretary of state as a foreign corporation and provide a copy of such registration and any certificate of authority issued by the Idaho secretary of state to the director; and

(c) Appoint a registered agent for service of process in Idaho and provide the director and the Idaho secretary of state with the name and address of such registered agent.

(4) A bank with a home state other than Idaho shall apply to and receive the approval of the director prior to any acquisition transaction which, if approved, would result in a bank, the home state of which is Idaho, becoming a branch or branches of the out-of-state bank. The director may accept copies of applications for such transactions made to other state or federal bank supervisory agencies. Without the prior approval of the director pursuant to this chapter, any merger transaction between a bank chartered by ~~or located~~ in this state and any out-of-state bank is unlawful.

~~(4) Banks chartered by this state and national banks, the main offices of which are located in this state, may establish or maintain branch banks in other states only in accordance with this chapter.~~

(5) A bank, the home state of which is Idaho, shall apply to and receive the approval of the director prior to any merger transaction which, if approved, would result in one ~~(1) or more banks~~ a bank chartered by or located in one ~~(1) or more other states~~ another state becoming a branch or branches of a the bank whose home state is Idaho.

SECTION 25. That Section 26-1605, Idaho Code, be, and the same is hereby amended to read as follows:

26-1605. CONDITIONS. (1) The director shall not approve the acquisition of a bank, the home state of which is Idaho, if:

~~(a) The bank to be acquired has been in existence and engaged in the business of banking in this state for less than five (5) years;~~

~~(b) The statutes of the home state of the acquiring bank would not expressly allow a bank chartered in this state to acquire a bank in such state.~~

(2) Upon notification by a bank, the home state of which is Idaho, that such bank intends to operate a branch in another state, the department will have thirty (30) days within which to object or otherwise act upon such an acquisition.

(3) If the director finds a violation of Idaho law concerning the activities of a bank which has Idaho as a host state, or that such a bank is operating in an unsafe and unsound condition, the director may take any enforcement or corrective action authorized under the Idaho bank act. The director may limit the authority of any bank operating in Idaho to accept or retain deposits originating in Idaho if the bank is operating in an unsafe or unsound manner.

Approved April 1, 2015

#### CHAPTER 205

(H.B. No. 142, As Amended in the Senate)

#### AN ACT

RELATING TO PLANNING AND ZONING COMMISSIONS; AMENDING SECTION 67-6504, IDAHO CODE, TO ALLOW A COUNTY TO APPOINT PLANNING AND ZONING COMMISSION MEMBERS FROM WITHIN A CITY'S AREA OF IMPACT OR WITHIN A CITY WHEN APPLICANTS ARE UNABLE TO BE FOUND OUTSIDE THE BOUNDARIES OF A CITY'S AREA OF IMPACT AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-6504, Idaho Code, be, and the same is hereby amended to read as follows:

67-6504. PLANNING AND ZONING COMMISSION -- CREATION -- MEMBERSHIP -- ORGANIZATION -- RULES -- RECORDS -- EXPENDITURES -- STAFF. A city council or board of county commissioners, hereafter referred to as a governing board, may exercise all of the powers required and authorized by this chapter in accordance with this chapter. If a governing board chooses to exercise the powers required and authorized by this chapter it need not follow the procedural requirements established hereby solely for planning and zoning commissions. If a governing board does not elect to exercise the powers conferred by this chapter, it shall establish by ordinance adopted, amended, or repealed in accordance with the notice and hearing procedures provided in



section 67-6509, Idaho Code, a planning commission and a zoning commission or a planning and zoning commission acting in both capacities, which may act with the full authority of the governing board, excluding the authority to adopt ordinances or to finally approve land subdivisions. The powers of the board of county commissioners conferred by this chapter shall apply to the unincorporated area of the county. Legally authorized planning, zoning, or planning and zoning commissions existing prior to enactment of this chapter shall be considered to be duly constituted under this chapter. Within this chapter use of the term "planning and zoning commission" shall include the term "planning commission," "zoning commission" and "planning and zoning commission."

(a) Membership -- Each commission shall consist of not less than three (3) nor more than twelve (12) voting members, all appointed by a mayor or chairman of the county board of commissioners and confirmed by majority vote of the governing board. An appointed member of a commission must have resided in the county for at least two (2) years prior to his appointment, and must remain a resident of the county during his service on the commission.

(1) Not more than one-third (1/3) of the members of any commission appointed by the chairman of the board of county commissioners may reside within an incorporated city of one thousand five hundred (1,500) or more population in the county; provided however, that any appointment from within an incorporated city with a population of one thousand five hundred (1,500) or more must occur on a rotating basis between all the incorporated cities with a population of one thousand five hundred (1,500) or more within the county.

(2) At least one-half (1/2) of the members of any commission appointed by the chairman of the board of county commissioners must reside outside the boundaries of any city's area of impact; provided however, if the requirements of this paragraph cannot be met the following may occur: if a vacancy occurs for a commission member residing outside the boundaries of any city's area of impact, after public notice of such vacancy on the commission and solicitation of applicants to fill the position from outside the boundaries of any city's area of impact, and if the governing board is unable to obtain applicants outside the boundaries of any city's area of impact, then the governing board may appoint from within a city's area of impact; provided however, that any appointment occurring within a city's area of impact must occur on a rotating basis between all the cities' areas of impact in the county.

(3) The ordinance establishing a commission to exercise the powers under this chapter shall set forth the number of members to be appointed. The term of office for members shall be not less than three (3) years, nor more than six (6) years, and the length of term shall be prescribed by ordinance. No person shall serve more than two (2) full consecutive terms without specific concurrence by two-thirds (2/3) of the governing board adopted by motion and recorded in the minutes. Vacancies occurring otherwise than through the expiration of terms shall be filled in the same manner as the original appointment. Members may be removed for cause by a majority vote of the governing board. Members shall be selected without respect to political affiliation and may receive such mileage and per diem compensation as provided by the governing board. If a governing board exercises these powers, its members shall be entitled to no additional mileage or per diem compensation.

(b) Organization -- Each commission shall elect a chairman and create and fill any other office that it may deem necessary. A commission may establish subcommittees, advisory committees or neighborhood groups to advise and assist in carrying out the responsibilities under this chapter. A commission may appoint nonvoting ex officio advisors as may be deemed necessary.

(c) Rules, Records, and Meetings -- Written organization papers or by-laws consistent with this chapter and other laws of the state for the transaction of business of the commission shall be adopted. A record of meetings, hearings, resolutions, studies, findings, permits, and actions taken shall be maintained. All meetings and records shall be open to the public. At least one (1) regular meeting shall be held each month for not less than nine (9) months in a year. A majority of ~~currently-appointed~~ currently appointed voting members of the commission shall constitute a quorum.

(d) Expenditures and Staff -- With approval of a governing board through the legally required budgetary process, the commission may receive and expend funds, goods, and services from the federal government or agencies and instrumentalities of state or local governments or from civic and private sources and may contract with these entities and provide information and reports as necessary to secure aid. Expenditures by a commission shall be within the amounts appropriated by a governing board. Within such limits, any commission is authorized to hire or contract with employees and technical advisors, including, but not limited to, planners, engineers, architects, and legal assistants.

Approved April 1, 2015

CHAPTER 206  
(H.B. No. 179)

AN ACT

RELATING TO HOSPITALS; AMENDING CHAPTER 13, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-1346B, IDAHO CODE, TO PROVIDE INVESTMENT LIMITATIONS FOR HOSPITAL DISTRICT TREASURERS; AND AMENDING SECTION 31-3608, IDAHO CODE, TO PROVIDE INVESTMENT LIMITATIONS FOR COUNTY HOSPITAL BOARD TREASURERS.

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 39-1346B, Idaho Code, and to read as follows:

39-1346B. TREASURER OF HOSPITAL -- INVESTMENT LIMITATIONS. It shall be the duty of the treasurer of a hospital district to invest idle moneys of such hospital. Such investment of idle moneys shall be limited to investments that carry an A rating or better by a commonly known rating service and that are authorized by the legislature for the state treasurer pursuant to sections 67-1210 and 67-1210A, Idaho Code.

SECTION 2. That Section 31-3608, Idaho Code, be, and the same is hereby amended to read as follows:

31-3608. OFFICERS OF BOARD. The county hospital board shall elect a chairman, vice-chairman, a secretary and a treasurer. The chairman and vice-chairman shall be members of the board. The secretary may be a member of the board or otherwise, as the board may determine. The treasurer may be a member of the board or otherwise, as the board may determine. The chairman or vice-chairman shall preside at all meetings, call special meetings and shall sign all minutes of the board when the same have been approved. The chairman or vice-chairman, or such other members of the board as the board may designate, shall be authorized by the board to approve disbursements of funds in the custody of the hospital board.

The secretary shall receive such pay as the board may direct, and shall keep the minutes of all meetings in a book provided for that purpose, and shall sign the same when said minutes have been approved.

The treasurer shall have custody of the ~~monies~~ moneys for which the hospital board is responsible, and shall disburse the same only upon authorization of the board. It shall be the duty of the treasurer to invest idle moneys. Such investment of idle moneys shall be limited to investments that carry an A rating or better by a commonly known rating service and that are authorized by the legislature for the state treasurer pursuant to sections 67-1210 and 67-1210A, Idaho Code. The treasurer shall receive such pay for services as the board may determine, and shall be required to file bond for the faithful performance of his duties as treasurer in an amount at least equal to the largest amount of money to come into his hands.

Approved April 1, 2015

CHAPTER 207  
(H.B. No. 183)

AN ACT

RELATING TO INFORMATION CENTERS ALONG STATE AND INTERSTATE HIGHWAYS; AMENDING SECTION 40-507, IDAHO CODE, TO ALLOW FOR POSTERS AND SIGNS FOR VICTIMS OF HUMAN TRAFFICKING, TO PROVIDE FOR CONTENTS OF THE POSTERS AND SIGNS AND TO DEFINE TERMS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 40-507, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

permits can include a memorandum of understanding (MOU), and encroachment permit, or a special event permit. The cost of poster and sign installment and maintenance shall be covered in the permit or MOU normally at the expense of the requestor.

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

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

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

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

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

Approved April 1, 2015

#### CHAPTER 208

(H.B. No. 194, As Amended in the Senate)

#### AN ACT

RELATING TO MOTOR VEHICLES; AMENDING SECTION 49-102, IDAHO CODE, TO DEFINE A TERM; AMENDING SECTION 49-107, IDAHO CODE, TO DEFINE A TERM; AMENDING SECTION 49-123, IDAHO CODE, TO REVISE A DEFINITION; AMENDING SECTION 49-401A, IDAHO CODE, TO REVISE A REFERENCE TO CERTAIN AGRICULTURAL PRODUCTS; AMENDING SECTION 49-613, IDAHO CODE, TO REVISE A REFERENCE TO CERTAIN AGRICULTURAL PRODUCTS; AMENDING SECTION 49-674, IDAHO CODE, TO REVISE PROVISIONS RELATING TO HARVEST SEASON; AMENDING SECTION 49-933, IDAHO CODE, TO REVISE A BRAKING REQUIREMENT EXEMPTION RELATING TO THE USE OF FARM TRAILERS; AMENDING SECTION 49-948, IDAHO CODE, TO REVISE A CHAINING REQUIREMENT EXEMPTION RELATING TO THE TRANSPORTATION OF AGRICULTURAL PRODUCTS; AMENDING SECTION 49-1001, IDAHO CODE, TO REMOVE LANGUAGE RELATING TO THE OPERATION OF REFUSE OR SANITATION TRUCKS; AMENDING SECTION 49-1011, IDAHO CODE, TO REVISE AN EXCEPTION TO CERTAIN WEIGHT RESTRICTION LIMITATIONS AND TO PROVIDE AN EXCEPTION TO CERTAIN WEIGHT RESTRICTION LIMITATIONS FOR FARM VEHICLES, VEHICLES THAT ARE OPERATED TO TRANSPORT FOREST PRODUCTS AND CERTAIN REFUSE OR SANITATION TRUCKS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 49-102, Idaho Code, be, and the same is hereby amended to read as follows:

49-102. DEFINITIONS -- A. (1) "Abandon" means to leave a vehicle on private property without the permission of the person having rights to the possession of the property, or on a highway or other property open to the public for the purposes of vehicular traffic or parking, or upon or within the right-of-way of any highway, for twenty-four (24) hours or longer.

(2) "Abandoned vehicle" means any vehicle observed by an authorized officer or reported by a member of the public to have been left within the limits of any highway or upon the property of another without the consent of the

property owner for a period of twenty-four (24) hours or longer, except that a vehicle shall not be considered abandoned if its owner-operator is unable to remove it from the place where it is located and has notified a law enforcement agency and requested assistance.

(3) "Accident" means any event that results in an unintended injury or property damage attributable directly or indirectly to the motion of a motor vehicle or its load, a snowmobile or special mobile equipment.

(4) "Actual physical control" means being in the driver's position of a motor vehicle with the motor running or the vehicle moving.

(5) "Administrator" means the federal highway administrator, the chief executive of the federal highway administration, an agency within the U.S. department of transportation.

(6) "Age of a motor vehicle" means the age determined by subtracting the manufacturer's year designation of the vehicle from the year in which the designated registration fee is paid. If the vehicle has the same manufacturer's year designation as the year in which the fee is paid, or if a vehicle has a manufacturer's year designation later than the year in which the fee is paid, the vehicle shall be deemed to be one (1) year old.

(7) "Agricultural products" means the following unprocessed products:

(a) Agricultural, horticultural, floricultural and viticultural products;

(b) Fruits and vegetable products;

(c) Field grains, seeds, hay, sod and nursery stock, and other plants, plant products, plant byproducts, plant waste and plant compost;

(d) Livestock, dairy animals, swine, furbearing animals, poultry, eggs, fish and other aquatic species;

(e) Other animals, animal products and animal byproducts, animal waste and animal compost; and

(f) Bees, bee products and bee byproducts.

(8) "Air-conditioning equipment" means mechanical vapor compression refrigeration equipment which is used to cool the driver's or passenger compartment of any motor vehicle.

(89) "Alcohol or alcoholic beverage" means:

(a) Beer as defined in 26 U.S.C. section 5052(a), of the Internal Revenue Code;

(b) Wine of not less than one-half of one percent (.005%) of alcohol by volume; or

(c) Distilled spirits as defined in section 5002(a)(8), of the Internal Revenue Code.

(910) "Alley" means a public way of limited use intended only to provide access to the rear or side of lots or buildings in urban districts.

(101) "All-terrain vehicle" or "ATV" means an all-terrain vehicle or ATV as defined in section 67-7101, Idaho Code.

(112) "Amateur radio operator." (See "Radio operator, amateur," section 49-119, Idaho Code)

(123) "Ambulance" means a motor vehicle designed and used primarily for the transportation of injured, sick, or deceased persons, on stretchers, cots, beds, or other devices for carrying persons in a prone position.

(134) "Applicant" means an individual who applies to obtain, transfer, upgrade, or renew a driver's license.

(145) "Approved driver training course" means a training course from a school licensed under the provisions of chapter 21 of this title or a driver training course approved by another United States jurisdiction provided the course was taken while an individual was a resident of that United States jurisdiction.

(156) "Approved testing agency" means a person, firm, association, partnership or corporation approved by the director of the Idaho state police which is:

(a) In the business of testing equipment and systems;

(b) Recognized by the director as being qualified and equipped to do experimental testing; and

(c) Not under the jurisdiction or control of any single manufacturer or supplier for an affected industry.

(167) "Armed forces" means the army, navy, marine corps, coast guard and the air force of the United States.

(178) "Authorized emergency vehicle." (See "Vehicle," section 49-123, Idaho Code)

(189) "Authorized officer" means any member of the Idaho state police, or any regularly employed and salaried deputy sheriff, or other county employee designated to perform the function of removing abandoned vehicles or junk vehicles by the board of county commissioners of the county in which a vehicle is located, or any regularly employed and salaried city peace officer or other city employee designated to perform the function of removing abandoned vehicles or junk vehicles by the city council, or a qualified person deputized or appointed by the proper authority as reserve deputy sheriff or city policeman, authorized within the jurisdiction in which the abandoned vehicle or junk vehicle is located.

(1920) "Authorized transportation department employee" means any employee appointed by the board to perform duties relating to enforcement of vehicle laws as have been specifically defined and approved by order of the board (see section 40-510, Idaho Code).

(201) "Auto transporter" means a vehicle combination constructed for the purpose of transporting vehicles.

SECTION 2. That Section 49-107, Idaho Code, be, and the same is hereby amended to read as follows:

49-107. DEFINITIONS -- F. (1) "Factory branch" means a branch office maintained by a person who manufactures or assembles vehicles for sale to distributors or to dealers, or for directing or supervising, in whole or in part, its representatives.

(2) "Factory representative" means any person and each officer and employee engaged as a representative of a manufacturer of vehicles or by a factory branch for the purpose of making or promoting a sale of their vehicles, or for supervising or contacting their dealers or prospective dealers.

(3) "Farm tractor" means every motor vehicle designed or adapted and used primarily as a farm implement power unit operated with or without other farm implements attached in any manner consistent with the structural design of that power unit.

(4) "Farm vehicle." (See "Vehicle," section 49-123, Idaho Code)

(5) "Federal motor vehicle safety standards (FMVSS)" means those safety standards established by the national highway traffic safety administration, under title 49 CFR part 500-599, for the safe construction and manufacturing of self-propelled motorized vehicles for operation on public highways. Such vehicles as originally designed and manufactured shall be so certified by the manufacturer to meet the federal motor vehicle safety standards or the standards in force for a given model year or as certified by the national highway traffic safety administration.

(6) "Felony" means any offense under state or federal law that is punishable by death or imprisonment for a term exceeding one (1) year.

(7) "Fifth wheel trailer." (See "Trailer," section 49-121, Idaho Code)

(8) "Financial institution" means any bank that is authorized to do business in the state of Idaho and any other financial institution that is registered with the department of finance.

(9) "Flammable liquid" means any liquid which has a flash point of 70 degrees Fahrenheit, or less, as determined by a tagliabue or equivalent closed-cup test device.

(10) "Fleet" means one (1) or more apportionable vehicles.

(11) "Fleet registration" means an optional form of registration through the department rather than a county assessor for registration of twenty-five (25) or more commercial or farm vehicles or any combination thereof. This registration is not an option for fleets of rental vehicles. Terms and conditions are further specified in section 49-434(5), Idaho Code.

(12) "Fold down camping trailer." (See "Trailer," section 49-121, Idaho Code)

(13) "Foreign vehicle." (See "Vehicle," section 49-123, Idaho Code)

(14) "Forest products" means all products derived from trees including, but not limited to, saw logs, veneer logs, poles, cedar products, pulp logs, fence posts, wood chips and every form into which a fallen tree may be cut before it is manufactured into lumber or run through a processing mill or cut into cordwood, stove wood or hewn ties.

(15) "Franchise" means a sales, service and parts agreement or any other contract or agreement between a dealer and a manufacturer of new vehicles or its distributor or factory branch by which the dealer is authorized to engage in the business of selling any specified make or makes of new vehicles.

(156) "Full-time salesman" means any person employed as a vehicle salesman on behalf of a dealer for thirty (30) or more hours per week, and who sells, purchases, exchanges or negotiates for the sale, purchase or exchange of five (5) or more vehicles during each year in which his license is in effect.

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

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

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

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

(2) "Vehicle" means:

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

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

(c) Authorized emergency vehicle. Vehicles operated by any fire department or law enforcement agency of the state of Idaho or any political subdivision of the state, ambulances, vehicles belonging to personnel of voluntary fire departments while in performance of official duties only, vehicles belonging to, or operated by EMS personnel certified or otherwise recognized by the EMS bureau of the Idaho department of health and welfare while in the performance of emergency medical services, sheriff's search and rescue vehicles which are under the immediate supervision of the county sheriff, wreckers which are engaged in motor vehicle recovery operations and are blocking part or all of one

(1) or more lanes of traffic, other emergency vehicles designated by the director of the Idaho state police or vehicles authorized by the Idaho transportation board and used in the enforcement of laws specified in section 40-510, Idaho Code, pertaining to vehicles of ten thousand (10,000) pounds or greater.

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

(i) Has a manufacturer's gross combination weight rating (GCWR) in excess of twenty-six thousand (26,000) pounds inclusive of a towed unit with a manufacturer's gross vehicle weight rating (GVWR) of more than ten thousand (10,000) pounds; or

(ii) Has a manufacturer's gross vehicle weight rating (GVWR) in excess of twenty-six thousand (26,000) pounds; or

(iii) Is designed to transport sixteen (16) or more people, including the driver; or

(iv) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the hazardous material transportation act and which require the motor vehicle to be placarded under the hazardous materials regulations (49 CFR part 172, subpart F).

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

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

(f) Foreign vehicle. Every vehicle of a type required to be registered under the provisions of this title brought into this state from another state, territory or country other than in the ordinary course of business by or through a manufacturer or dealer and not registered in this state.



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

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

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

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

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

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

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

(n) Replica vehicle or vessel. A vehicle or vessel made to replicate any vehicle or vessel previously manufactured, using metal, fiberglass or other composite materials. Replica vehicles must look like the original vehicle being replicated but may use a more modern drive train. At a minimum, replica vehicles shall meet the same federal motor vehicle safety and emission standards in effect for the year and type of vehicle being replicated.

(o) Salvage vehicle or vessel. Any vehicle or vessel for which a salvage certificate of title, salvage bill of sale or other documentation has been issued showing evidence that the vehicle or vessel has been declared salvage or which has been damaged to the extent that the owner, or an insurer, or other person acting on behalf of the owner, determines that the cost of parts and labor minus the salvage value makes it uneco-

nomical to repair or rebuild. When an insurance company has paid money or has made other monetary settlement as compensation for a total loss of any vehicle or vessel, such vehicle shall be considered to be a salvage vehicle or vessel.

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

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

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

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

(iv) A vehicle or vessel constructed by the use of a custom kit that cannot be visually identified as a specific make or model. All specially constructed vehicles of a type required to be registered shall be certified by the owner to meet all applicable federal motor vehicle safety standards in effect at the time construction is completed, and all requirements of chapter 9, title 49, Idaho Code.

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

(r) Tank vehicle.

(i) Any commercial motor vehicle transporting, or designed to transport, any liquid or gaseous materials within:

1. A tank that is either permanently or temporarily attached or secured to the vehicle or chassis and has a rated capacity of one thousand (1,000) gallons or more; or

2. Multiple tanks either permanently or temporarily attached or secured, when the aggregate rated capacity of those tanks is one thousand (1,000) gallons or more, as determined by adding the capacity of each individual tank with a capacity of more than one hundred nineteen (119) gallons.

(ii) If a commercial motor vehicle transports one (1) or more tanks that are manifested either as empty or as residue and that are actually empty or contain only residue, those tanks shall not be considered in determining whether the vehicle is a tank vehicle.

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

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

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

time salesman," section 49-107, Idaho Code, and "part-time salesman," section 49-117, Idaho Code)

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

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

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

SECTION 4. That Section 49-401A, Idaho Code, be, and the same is hereby amended to read as follows:

49-401A. OWNER TO SECURE REGISTRATION FROM A COUNTY ASSESSOR OR THE DEPARTMENT. (1) Every owner of a motor vehicle, trailer or semitrailer who intends to operate the vehicle upon any highway in this state shall before the same is so operated, apply to a county assessor and obtain registration for vehicles in sections 49-402(1) through (3), 49-402A, 49-402B and 49-422, Idaho Code. All others shall be obtained from the department except as provided in subsection (2) of this section. Owners of vehicles specified in section 49-426, Idaho Code, are exempt from the provisions of this section. Owners of vehicles operating on a temporary basis as provided in sections 49-431(3), 49-432 and 49-433, Idaho Code, are exempt from the provisions of this section to the extent that the temporary permits in use are unexpired.

(2) Commercial vehicles in excess of twenty-six thousand (26,000) pounds gross weight, farm and noncommercial vehicles in excess of sixty thousand (60,000) pounds gross weight and all vehicles registered under section 49-435, Idaho Code, shall be registered by the department. All other commercial, farm and noncommercial vehicles and the vehicles in paragraphs (a), (b), and (c) of this subsection, shall be registered by the county assessor.

(a) Motor vehicles equipped primarily to haul passengers on a commercial basis, doing strictly an intrastate business, and having gross weights of twenty-six thousand (26,000) pounds or less.

(b) Any farm vehicle or combination of vehicles where each vehicle or combination of vehicles shall not exceed a gross weight of sixty thousand (60,000) pounds.

(c) Nonresident vehicles or combination of vehicles owned by transient labor used in hauling unprocessed agricultural products for hire and not exceeding sixty thousand (60,000) pounds gross weight shall register their vehicle for the appropriate gross weight scale for the annual fee if registered on or before June 30, and for one-half (1/2) the annual fee if not registered until on or after July 1 of any year, with the assessor of the county in which the owner resides.

(3) Commercial, farm and noncommercial vehicles of any weight doing strictly an intrastate business may be registered by the county assessor by mutual agreement between the department and the county.

SECTION 5. That Section 49-613, Idaho Code, be, and the same is hereby amended to read as follows:

49-613. PUTTING GLASS OR OTHER INJURIOUS MATERIALS ON HIGHWAY PROHIBITED. The following shall apply to persons and vehicles not otherwise exempted from the application of this section by federal or state law:

(1) No person shall throw or deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans, or any other substance likely to injure any person, animal or vehicle upon the highway.

(2) Any person who drops, or permits to be dropped or thrown, upon any highway any destructive or injurious material shall immediately remove that material or cause it to be removed.

(3) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from that vehicle.

(4) No vehicle shall be operated on any public highway unless such vehicle's load is secured to prevent the load from becoming loose, detached or a hazard to other users of the highway.

(5) No person may operate on any public highway any vehicle with any load unless the load is secured and such covering as required thereon by subsection (6) of this section is securely fastened to prevent the covering or load from becoming loose, detached or a hazard to other users of the highway.

(6) Any vehicle operating on a paved public highway with a load of dirt, sand or gravel susceptible to being dropped, spilled, leaked or otherwise escaping therefrom shall be covered so as to prevent spillage. Covering of such loads is not required if six (6) inches of freeboard is maintained.

(7) The provisions of subsections (5) and (6) of this section shall not apply to a government, quasi-government, their agents or employees or contractors thereof, in performance of maintenance or construction of a highway.

(8) The provisions of subsections (4), (5) and (6) of this section shall not apply to vehicles owned by canal companies, irrigation districts, drainage districts or their boards of control, lateral ditch associations, water districts or other irrigation water delivery or management entities, or operated by any employee or agent of such an entity, performing construction, operation or maintenance of facilities.

(9) The provisions of subsections (4), (5) and (6) of this section shall not apply to vehicles transporting ~~processed or unprocessed~~ agricultural products, agricultural byproducts, agricultural materials or agricultural inputs.

SECTION 6. That Section 49-674, Idaho Code, be, and the same is hereby amended to read as follows:

49-674. HARVEST SEASON. Harvest season for the purpose of vehicles transporting agricultural products, ~~including fresh fruits and vegetables, livestock, livestock feed, products of the forest or manure,~~ shall be year-round.

SECTION 7. That Section 49-933, Idaho Code, be, and the same is hereby amended to read as follows:

49-933. BRAKES. (1) Every motor vehicle, other than a motorcycle or motor-driven cycle, when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and hold the vehicle, including two (2) separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two (2) wheels. If the two (2) separate means of applying the brakes are connected in any way, they shall be so constructed that failure of any one (1) part of the operating mechanism shall not leave the motor vehicle without brakes on at least two (2) wheels.

(2) Every motorcycle and every motor-driven cycle, when operated upon a highway, shall be equipped with at least one (1) brake, which may be operated by hand or foot.

(3) Every trailer or semitrailer of an unladen weight of one thousand five hundred (1,500) pounds or more when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and hold the vehicle and be designed to be applied by the driver of the towing motor vehicle from its cab. The brakes shall be designed and so connected that in case of an accidental breakaway of the towed vehicle, the brakes shall be automatically applied.

(4) Every new motor vehicle, trailer, or semitrailer sold in this state and operated upon the highways shall be equipped with service brakes upon all wheels of the vehicle, except that any motorcycle or motor-driven cycle, trucks and truck tractors having three (3) or more axles need not have brakes on the front wheels. Vehicles equipped with at least two (2) steerable axles need not be equipped with brakes on the wheels of one (1) axle, and any trailer or semitrailer of less than one thousand five hundred (1,500) pounds unladen weight need not be equipped with brakes. Every farm trailer while being used hauling agricultural products ~~or livestock~~ from farm to storage, marketing or processing plant, or returning therefrom, and used within a radius of fifty (50) miles, shall be exempt from these braking requirements.

(5) One (1) of the means of brake operation shall consist of a mechanical connection from the operating lever, or by equivalent means to the brake shoes or bands, and this brake shall be capable of holding the vehicle, or combination of vehicles, stationary under any condition of loading on any upgrade or downgrade upon which it is operated.

(6) Brake shoes operating within or upon the drums on the vehicle wheels of any motor vehicle may be used for both service and hand operation.

(7) Every motor vehicle or combination of vehicles, at all times and under all conditions of loading, shall, upon application of the service (foot) brake, be capable of decelerating and developing a braking force equivalent to minimum required deceleration, and stopping within the requirements set forth in this subsection:

	Stopping distance in feet	Deceleration in feet per second	Equivalent braking force in percentage of vehicle or combination weight
Passenger vehicles, not including buses . . . . .	25	17	53.0%
Single-unit vehicles with a manufacturer's gross vehicle weight rating of less than 10,000 pounds . . . . .	30	14	43.5%
Single-unit, 2-axle vehicles with a manufacturer's gross vehicle weight rating of 10,000 or more pounds . . .	40	14	43.5%
All other vehicles and combinations with a manufacturer's gross vehicle weight rating of 10,000 or more pounds . . .	50	14	43.5%

Compliance with these standards shall be determined either by actual road tests conducted on a substantially level, not to exceed a plus or minus one per cent (1%) grade, dry, smooth, hard-surfaced road that is free from loose material, with stopping distances measured from the actual instant braking controls are moved and from an initial speed of twenty (20) miles per

hour; or else by suitable mechanical tests in a testing lane which recreates the same conditions; or by a combination of both methods.

(8) All brakes shall be maintained in good working order and shall be adjusted to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle.

SECTION 8. That Section 49-948, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

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

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

(a) Studs shall not protrude more than six-hundredths (.06) of an inch from the surface of the tire tread when originally installed.

(b) Stud size shall be as recommended by the manufacturer of the tire for the type and size of the tire.

(c) Studs shall individually weigh no more than one and one-half (1.5) grams if the stud is size 14 or less.

(d) Studs shall individually weigh no more than two and three-tenths (2.3) grams if the stud size is 15 or 16.

(e) Studs shall individually weigh no more than three (3) grams if the stud size is 17 or larger.

(5) If the Idaho transportation department determines, at any time, that Lookout Pass or Fourth of July Pass on interstate 90 or Lolo Pass on state highway 12 is of an unsafe condition so as to require chains, as defined in section 49-104, Idaho Code, in addition to pneumatic tires, the Idaho

transportation department may establish requirements for the use of chains on all commercial vehicles as defined in section 49-123(2) (d) (i) and (ii), Idaho Code, traveling on interstate 90 or state highway 12. If the Idaho transportation department establishes that chains are so required, the Idaho transportation department shall:

- (a) Provide multiple advance notices of the chain requirement;
- (b) Provide adequate opportunities for pull out;
- (c) Provide notification at a point at which the commercial vehicle can safely pull out of the normal flow of traffic, prior to the point at which chains are required; and
- (d) In no case post requirements for chains on bare pavement.

(6) Provided that the conditions in subsection (5) of this section are met, the chain requirement shall be met by chaining a minimum of one (1) tire on each side of:

- (a) One (1) drive axle, regardless of the number of drive axles; and
- (b) One (1) axle at or near the rear of each towed vehicle. Such axle shall not include a variable load suspension axle or an axle of a converter dolly.

(7) Chains as required in subsection (6) (a) and (b) of this section mean "chains" as defined in section 49-104, Idaho Code. Any other traction device differing from chains in construction, material or design but capable of providing traction equal to or exceeding that of chains under similar conditions may be used.

(8) The Idaho transportation department shall place and maintain signs and other traffic control devices on the interstate and state highway passes as designated in subsection (5) of this section that indicate the chain requirements under subsection (6) of this section.

(9) Exempt from the chaining requirements provided for in subsections (5) and (6) of this section are:

- (a) Motor vehicles operated by the Idaho transportation department when used in the maintenance of the interstate or state highway system; and

(b) The following:

(i) Motor vehicles employed solely in transporting school children and teachers to or from school or to or from approved school activities, when the motor vehicle is either:

1. Wholly owned and operated by such school; or
2. Leased or contracted by such school and the motor vehicle is not used in furtherance of any other commercial enterprise;

(ii) Motor vehicles controlled and operated by any farmer when used in the transportation of the farmer's farm equipment or in the transportation of supplies to the farmer's farm;

(iii) The transportation of agricultural products ~~including fresh fruits and vegetables, livestock, livestock feed or manure~~ at any time of the year;

(iv) Motor propelled vehicles for the sole purpose of carrying United States mail or property belonging to the United States;

(v) Motor carriers transporting products of the forest at any time of the year, including chip trucks;

(vi) Motor carriers transporting products of the mine including sand, gravel and aggregates thereof, excepting petroleum products; and

(vii) Vehicles properly equipped, designed and customarily used for the transportation of disabled or abandoned vehicles by means of a crane, hoist, tow bar, dolly or roll bed, commonly known as a "wrecker truck" or "tow truck."

SECTION 9. That Section 49-1001, Idaho Code, be, and the same is hereby amended to read as follows:

49-1001. ALLOWABLE GROSS LOADS. The gross load imposed on the highway by any vehicle or combination of vehicles shall not exceed the limits in this section. The maximum single axle gross weight shall be twenty thousand (20,000) pounds, the maximum single wheel gross weight shall be ten thousand (10,000) pounds and the maximum gross vehicle or combination weight shall be one hundred five thousand five hundred (105,500) pounds, provided that maximum gross vehicle or combination weight on United States federal interstate and defense highways of this state shall not exceed eighty thousand (80,000) pounds, except as permitted under the provisions of section 49-1004, Idaho Code.

(1) The total gross weight imposed on the highway by any group of consecutive axles shall be determined by the following formula:

$$W=500((LN/N-1)+12N+36)$$

Where W is the maximum weight in pounds (to the nearest 500 pounds) carried on any group of two (2) or more consecutive axles. L is the distance in feet between the extremes of any group of two (2) or more consecutive axles, and N is the number of axles under consideration.

The formula is modified as illustrated in the following table:

Distance in feet between the extremes of any group of 2 or more consecutive axles	Maximum load in pounds carried on any group of 2 or more consecutive axles												
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles	9 axles	10 axles	11 axles	12 axles	13 axles	
4	34,000												
5	34,000												
6	34,000												
7	34,000												
8	34,000												
8+	38,000	42,000											
9	39,000	42,500											
10	40,000	43,500											
11		44,000											
12		45,000	50,000										
13		45,500	50,500										
14		46,500	51,500										
15		47,000	52,000										
16		48,000	52,500	58,000									
17		48,500	53,500	58,500									
18		49,500	54,000	59,000									
19		50,000	54,500	60,000									
20		51,000	55,500	60,500	66,000								
21		51,500	56,000	61,000	66,500								
22		52,500	56,500	61,500	67,000								
23		53,000	57,500	62,500	68,000								

WHEN NO ALLOWABLE WEIGHT IS LISTED FOR ANY AXLE SPACING, APPLY THE ALLOWABLE WEIGHT AS LISTED IN THE FIRST COLUMN TO THE LEFT



Distance in  
feet between  
the extremes  
of any group  
of 2 or more  
consecutive  
axles

Maximum load in pounds carried on any group of 2 or more consecutive axles

	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles	9 axles	10 axles	11 axles	12 axles	13 axles
24		54,000	58,000	63,000	68,500	74,000						
25		54,500	58,500	63,500	69,000	74,500						
26		55,500	59,500	64,000	69,500	75,000						
27		56,000	60,000	65,000	70,000	75,500						
28		57,000	60,500	65,500	71,000	76,500	82,000					
29		57,500	61,500	66,000	71,500	77,000	82,500					
30		58,500	62,000	66,500	72,000	77,500	83,000					
31		59,000	62,500	67,500	72,500	78,000	83,500					
32		60,000	63,500	68,000	73,000	78,500	84,500	90,000				
33			64,000	68,500	74,000	79,000	85,000	90,500				
34			64,500	69,000	74,500	80,000	85,500	91,000				
35			65,500	70,000	75,000	80,500	86,000	91,500				
36			66,000	70,500	75,500	81,000	86,500	92,000	98,000			
37			66,500	71,000	76,000	81,500	87,000	93,000	98,500			
38			67,500	71,500	77,000	82,000	87,500	93,500	99,000			
39			68,000	72,500	77,500	82,500	88,500	94,000	99,500			
40			68,500	73,000	78,000	83,500	89,000	94,500	100,000	106,000		
41			69,500	73,500	78,500	84,000	89,500	95,000	100,500	106,500		
42			70,000	74,000	79,000	84,500	90,000	95,500	101,000	107,000		
43			70,500	75,000	80,000	85,000	90,500	96,000	102,000	107,500		
44			71,500	75,500	80,500	85,500	91,000	96,500	102,500	108,000	114,000	
45			72,000	76,000	81,000	86,000	91,500	97,500	103,000	108,500	114,500	
46			72,500	76,500	81,500	87,000	92,500	98,000	103,500	109,000	115,000	
47			73,500	77,500	82,000	87,500	93,000	98,500	104,000	110,000	115,500	
48			74,000	78,000	83,000	88,000	93,500	99,000	104,500	110,500	116,000	122,000
49			74,500	78,500	83,500	88,500	94,000	99,500	105,000	111,000	116,500	122,500
50			75,500	79,000	84,000	89,000	94,500	100,000	105,500	111,500	117,000	123,000
51			76,000	80,000	84,500	89,500	95,000	100,500	106,000	112,000	118,000	123,500
52			76,500	80,500	85,000	90,500	95,500	101,000	107,000	112,500	118,500	124,000
53			77,500	81,000	86,000	91,000	96,500	102,000	107,500	113,000	119,000	124,500
54			78,000	81,500	86,500	91,500	97,000	102,500	108,000	113,500	119,500	125,000
55			78,500	82,500	87,000	92,000	97,500	103,000	108,500	114,000	120,000	125,500
56			79,500	83,000	87,500	92,500	98,000	103,500	109,000	115,000	120,500	126,000
57			80,000	83,500	88,000	93,000	98,500	104,000	109,500	115,500	121,000	127,000
58				84,000	89,000	94,000	99,000	104,500	110,000	116,000	121,500	127,500
59				85,000	89,500	94,500	99,500	105,000	110,500	116,500	122,000	128,000
60				85,500	90,000	95,000	100,500	105,500	111,000	117,000	122,500	128,500
61				86,000	90,500	95,500	101,000	106,000	112,000	117,500	123,000	129,000
62				87,000	91,000	96,000	101,500	107,000	112,500	118,000	124,000	
63				87,500	92,000	96,500	102,000	107,500	113,000	118,500	124,500	
64				88,000	92,500	97,500	102,500	108,000	113,500	119,000	125,000	

Distance in feet between the extremes of any group of 2 or more consecutive axles

Maximum load in pounds carried on any group of 2 or more consecutive axles

	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles	9 axles	10 axles	11 axles	12 axles	13 axles
65				88,500	93,000	98,000	103,000	108,500	114,000	119,500	125,500	
66				89,500	93,500	98,500	103,500	109,000	114,500	120,000	126,000	
67				90,000	94,000	99,000	104,500	109,500	115,000	121,000	126,500	
68				90,500	95,000	99,500	105,000	110,000	115,500	121,500	127,000	
69				91,000	95,500	100,000	105,500	111,000	116,000	122,000	127,500	
70				92,000	96,000	101,000	106,000	111,500	117,000	122,500	128,000	
71				92,500	96,500	101,500	106,500	112,000	117,500	123,000	128,500	
72				93,000	97,000	102,000	107,000	112,500	118,000	123,500	129,000	
73				93,500	98,000	102,500	107,500	113,000	118,500	124,000		
74				94,500	98,500	103,000	108,000	113,500	119,000	124,500		
75				95,000	99,000	103,500	109,000	114,000	119,500	125,000		
76				95,500	99,500	104,500	109,500	114,500	120,000	126,000		
77				96,000	100,000	105,000	110,000	115,000	120,500	126,500		
78				97,000	101,000	105,500	110,500	116,000	121,000	127,000		
79				97,500	101,500	106,000	111,000	116,500	122,000	127,500		
80				98,000	102,000	106,500	111,500	117,000	122,500	128,000		
81				98,500	102,500	107,000	112,000	117,500	123,000	128,500		
82				99,000	103,000	108,000	113,000	118,000	123,500	129,000		
83				100,000	104,000	108,500	113,500	118,500	124,000			
84					104,500	109,000	114,000	119,000	124,500			
85					105,000	109,500	114,500	120,000	125,000			
86					105,500	110,000	115,000	120,500	125,500			
87					106,000	111,000	115,500	121,000	126,000			
88					107,000	111,500	116,000	121,500	127,000			
89					107,500	112,000	117,000	122,000	127,500			
90					108,000	112,500	117,500	122,500	128,000			
91					108,500	113,000	118,000	123,000	128,500			
92					109,000	113,500	118,500	123,500	129,000			
93					110,000	114,000	119,000	124,000				
94					110,500	115,000	119,500	125,000				
95					111,000	115,500	120,000	125,500				
96					111,500	116,000	121,000	126,000				
97					112,000	116,500	121,500	126,500				
98					113,000	117,000	122,000	127,000				
99					113,500	118,000	122,500	127,500				
100					114,000	118,500	123,000	128,000				
101					114,500	119,000	123,500	129,000				

(a) A public highway agency may limit the application of the weights authorized in this section as to certain highways within its jurisdiction which it determines have limited structural capacity of pavements, bridges, or other appurtenances. In designating such highways, it may

specify a minimum wheelbase for combinations to be operated thereon. It may also designate specific highways or portions on which operation of a combination of vehicles with seven (7) through thirteen (13) axles will be subject to specified lesser allowable gross weights.

(b) Notwithstanding the figures shown in the table in this subsection (1), two (2) consecutive sets of tandem axles may carry a gross load of thirty-four thousand (34,000) pounds each, providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six (36) feet or more.

(c) Vehicles may operate with reducible loads at gross weights greater than one hundred five thousand five hundred (105,500) pounds but not exceeding one hundred twenty-nine thousand (129,000) pounds on noninterstate highways in accordance with the provisions of section 49-1004, Idaho Code, provided such vehicles are in compliance with the weight formula specified in this subsection (1) of this section, have registered and have paid the registration fees as specified in section 49-434, Idaho Code, and are in compliance with the length restrictions set forth in section 49-1010(7), Idaho Code.

(2) The weight limitations set forth in the table in subsection (1) of this section shall not apply to any vehicle, or combination of vehicles when a greater allowed weight in pounds would be permitted such vehicles under the table provided in this subsection, except that with regard to transportation on the United States federal interstate and defense highways of this state, the following table of allowable weights shall apply only to vehicles engaged in the transportation of logs, pulp wood, stull, rough lumber, poles or piling; or to any such vehicle engaged in the transportation of ores, concentrates, sand and gravel and aggregates thereof, in bulk; or to any such vehicle engaged in the transportation of agricultural commodities, including livestock:

Distance in feet between the extremes of any group of 2 or more consecutive axles	Allowed Load in Pounds	
	Vehicles with Three or Four axles	Vehicles with Five or more axles
3 through 12	37,800	37,800
13	56,470	56,470
14	57,940	57,940
15	59,400	59,400
16	60,610	60,610
17	61,820	61,820
18	63,140	63,140
19	64,350	64,350
20	65,450	65,450
21	66,000	66,330
22	66,000	67,250
23	66,000	67,880
24	66,000	68,510
25	66,000	69,150
26	66,000	69,770
27	66,000	70,400

Distance in feet between the extremes of any group of 2 or more consecutive axles	Allowed Load in Pounds	
	Vehicles with Three or Four axles	Vehicles with Five or more axles
28	66,000	70,950
29	66,000	71,500
30	66,000	72,050
31		72,600
32		73,150
33		73,700
34		74,250
35		74,800
36		75,350
37		75,900
38		76,450
39		77,000
40		77,550
41		78,100
42		78,650
43 and over		79,000

The weight allowances provided in this subsection do not apply if the total gross weight of a vehicle or combination of vehicles is intended to exceed seventy-nine thousand (79,000) pounds as declared by the operator. When the provisions of this subsection are applicable to a vehicle or combination of vehicles, it shall be a violation of the provisions of this subsection if that vehicle or combination of vehicles exceeds the weights specified in this table.

(3) In determining the gross weight of a vehicle or the gross weight of any two (2) or more consecutive axles under subsection (1) or (2) or (9) of this section, the total gross weight of the vehicle or combination of vehicles or the gross weight of any two (2) or more consecutive axles shall be the sum of the axle weights.

For the purposes of this chapter the gross weight of a vehicle or the gross weight of any two (2) or more consecutive axles may be determined by accumulatively adding the separate weights of individual axles and tandem axles or groups of axles to determine gross weight. The results of any weighing at a temporary or permanent port of entry and the records relating to the calibration and accuracy of any scale at a temporary or permanent port of entry shall be admissible in any proceeding in this state. In order to prove a violation of the provisions of this section the state must show that:

- (a) The sum of the axle weights exceeds what is allowable under the provisions of subsection (1) or (2) or (9) of this section;
- (b) The scale involved in the weighing was at the time of weighing calibrated in conformity with and met the accuracy requirements of the standards for the enforcement of traffic and highway laws as set forth in the latest edition of handbook 44 of the national institute of standards and technology;

(c) Weights of individual axles or axles within a commonly suspended group of axles supported by a mechanical system designed to distribute equal wheel loads to individual axles in the group were utilized only to determine gross weights of that group of axles, and that any further evaluation of gross weights of combinations of axles considered only the accumulated gross weight of each such commonly suspended group of axles.

(4) In applying the weight limitations imposed in this section, a vehicle or combination of vehicles must comply exclusively with the weight limitations in either subsection (1) or (2) or (9) of this section.

(5) In applying the weight limitations imposed in this section, the distance between axles shall be measured to the nearest even foot. When a fraction is exactly one-half (1/2) foot the next larger whole number shall be used.

(6) The limitations imposed in this section are in addition and supplemental to all other laws imposing limitations upon the size and weight of vehicles. Further, single axles within groups of axles are subject to the provisions and limitations of this chapter. Single axles within groups of axles may be weighed and evaluated separately.

(7) Notwithstanding the other provisions of this chapter, no vehicle, motor vehicle, trailer and/or semitrailer, or combination thereof, may be operated on the public highways of the state under loads which would result in the withholding of funds by operation of controlling federal law as provided in the Federal Aid Highway Act of 1956, as amended.

(8) Except as provided herein, no vehicle or combination of vehicles may proceed past the place of weighing at temporary or permanent ports of entry or checking stations when: the weight of a single axle exceeds the maximum limitations set forth herein by two thousand (2,000) pounds or more; the weight of a combination of axles, or gross vehicle weight exceeds the maximum allowable weight as set forth herein by seven percent (7%) or more. Vehicles or combinations of vehicles which exceed the weight limitations set forth herein shall be required to be brought into compliance with applicable weight limitations contained within this subsection at the place of weighing prior to continuing, except those vehicles or combinations of vehicles which are transporting loads which, in the determination of the board or other proper authorities in charge of or having jurisdiction over a highway, are deemed unsafe or impractical to bring into compliance at the place of weighing, and except those vehicles which do not exceed fifteen percent (15%) over maximum axle and axle group weights set forth in this section. Vehicles or combinations of vehicles transporting loads in this latter category shall obtain a travel authorization to the nearest place of safe unloading, load adjustment or other means of legalization.

(a) Neither the state of Idaho or its employees, nor any authority and its employees in charge of or having jurisdiction over a highway, shall be held liable for personal injury or property damage resulting from the requirements of section 49-1001(8), Idaho Code.

(b) The fee for a travel authorization as set forth above shall be fifty dollars (\$50.00) and shall be on a form prescribed by the board or other proper authorities, and shall not be construed as contributing to a reduction in the penalties prescribed in section 49-1013, Idaho Code.

(c) The board or other proper authorities in charge of or having jurisdiction over a highway shall adopt and enforce administrative rules as may be necessary to carry out the provisions of this section.

(9) For vehicles on all highways except the United States federal interstate and defense highways of this state, the following table shall apply:

Distance in feet between the extremes of any group of 2 or more consecutive axles	Allowed Load in Pounds	
	Vehicles with Three or Four axles	Vehicles with Five or more axles
3 through 12	37,800	37,800
13	56,470	56,470
14	57,940	57,940
15	59,400	59,400
16	60,610	60,610
17	61,820	61,820
18	63,140	63,140
19	64,350	64,350
20	65,450	65,450
21	66,000	66,330
22	66,000	67,250
23	66,000	67,880
24	66,000	68,510
25	66,000	69,150
26	66,000	69,770
27	66,000	70,400
28	66,000	70,950
29	66,000	71,500
30	66,000	72,050
31		72,600
32		73,150
33		73,700
34		74,250
35		74,800
36		75,350
37		75,900
38		76,450
39		77,000
40		77,550
41		78,100
42		78,650
43 and over		80,000

The weight allowances provided in this subsection do not apply if the total gross weight of a vehicle or combination of vehicles is intended to exceed eighty thousand (80,000) pounds as declared by the operator. When the provisions of this subsection are applicable to a vehicle or combination of vehicles, it shall be a violation of the provisions of this subsection if that vehicle or combination of vehicles exceeds the weights specified in this table.

~~(10) When owned by or under contract to or under authority of a city, county, or state agency, refuse/sanitation trucks transporting refuse may be operated on public highways in accordance with the weights allowed in subsection (9) of this section, except that such trucks equipped with single rear axles are allowed twenty-four thousand (24,000) pounds on that single rear axle when specifically authorized by the public highway agency governing the highways over which the refuse/sanitation truck is operating and provided the following conditions are met:~~

~~(a) The weight allowances provided for in this subsection shall not apply to the United States federal interstate and defense highways of the state; and~~

~~(b) The owner or operator has paid an annual operating fee for a permit, not to exceed fifty dollars (\$50.00) per refuse/sanitation truck to each public agency governing the public highways over which the refuse/sanitation truck operates. The permit shall be carried in the refuse/sanitation truck. The permit fee may be waived by a public agency for refuse/sanitation trucks operated over public highways under that agency's jurisdiction.~~

~~(11) Variable load suspension axles shall meet the following criteria in order to be included in the computation of gross vehicle or axle weight limits for vehicles under the provisions of this section:~~

~~(a) The deployment control switch for such axles may be located inside of the driver's compartment but the pressure regulator valve for the operation of pressure on the pavement shall be located outside of and inaccessible to the driver's compartment.~~

~~(b) The manufacturer's gross axle weight rating of each such axle must not be less than the actual loading of the axle.~~

~~(c) All variable load suspension axles shall be designed to be self-steering; provided however, variable load suspension axles that are within sixty (60) inches of a drive axle or are within sixty (60) inches of a trailer axle, need not be self-steering.~~

~~(d) The manufacturer's gross tire weight rating of each tire must not be less than the actual loading of the tire.~~

~~(e) Variable load suspension axles must be fully deployed or fully raised. For applicable definitions, see sections 49-117 and 49-123, Idaho Code.~~

~~(12) Any person who operates a motor vehicle with a variable load suspension axle in violation of the provisions of this section shall be subject to the penalties provided in section 49-1013, Idaho Code.~~

SECTION 10. That Section 49-1011, Idaho Code, be, and the same is hereby amended to read as follows:

49-1011. EXCEPTION TO WEIGHT AND SIZE LIMITATIONS. (1) If federal law permits the several states to establish size and weight limits in excess of those prescribed in sections 49-1001 and 49-1010, Idaho Code, the board, as provided in subsection (2) of this section, may authorize the movement on highways under its jurisdiction of vehicles, motor vehicles, trailers and/or semitrailers, or combinations thereof, of a size or weight in excess of the limits prescribed in sections 49-1001 and 49-1010, Idaho Code, but within the limits necessary to qualify for federal-aid highway funds.

(2) The authority granted the board by the provisions of this section shall be exercised by adoption of rules or regulations pursuant to section 40-312, Idaho Code, or by issuance of permits pursuant to section 49-1004, Idaho Code, except that the maximum size and weight limits authorized in this section apply.

~~(3) Vehicles owned and operated by a farmer or designated agents transporting agricultural products~~ The following vehicles may be operated on any highway, except a highway that is not part of the federal-aid interstate sys-

tem, up to two thousand (2,000) pounds in excess of any axle, bridge or gross vehicle weight limit established in section 49-1001, Idaho Code, as determined by the vehicle operator:

- (a) Farm vehicles;
- (b) Vehicles that are operated to transport forest products; and
- (c) Refuse or sanitation trucks that are operated by a city, county or state agency, or by a designated agent of the agency, to transport refuse.

Such extra weight shall not apply to posted bridge weights or other seasonal or temporary weight limit postings.

SECTION 11. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 1, 2015

CHAPTER 209  
(H.B. No. 220)

AN ACT

RELATING TO INCOME TAX CREDITS FOR CHARITABLE CONTRIBUTIONS; AMENDING SECTION 63-3029A, IDAHO CODE, TO REVISE CRITERIA AS TO HOW CERTAIN NONPROFIT CORPORATIONS, FUNDS, FOUNDATIONS, TRUSTS OR ASSOCIATIONS QUALIFY FOR THE INCOME TAX CREDIT, TO REMOVE A REFERENCE TO THE STATE BOARD OF EDUCATION, TO REVISE A DEFINITION, TO PROVIDE A CORRECT NAME, TO PROVIDE AN ADDITIONAL DEFINITION AND TO PROVIDE STANDARDS OF CARE FOR CERTAIN ENTITIES; REPEALING SECTION 3, CHAPTER 354, LAWS OF 2010, RELATING TO THE REPEAL OF A CERTAIN CODE SECTION; REPEALING SECTION 63-3029A, IDAHO CODE, AS ENACTED BY SECTION 4, CHAPTER 354, LAWS OF 2010, RELATING TO INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS AND LIMITATIONS; AMENDING SECTION 5, CHAPTER 354, LAWS OF 2010, TO REMOVE AN EFFECTIVE DATE; AMENDING SECTION 63-3029A, IDAHO CODE, AS AMENDED BY SECTION 1 OF THIS ACT, TO REMOVE A DEFINITION AND TO REMOVE REFERENCE TO A NONPROFIT CORPORATION, FUND, FOUNDATION, TRUST OR ASSOCIATION FOR EDUCATIONAL PURPOSES; DECLARING AN EMERGENCY, PROVIDING RETROACTIVE APPLICATION AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Section 63-3029A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029A. INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS -- LIMITATION. 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 fifty percent (50%) of the aggregate amount of charitable contributions made by such taxpayer during the year to a nonprofit corporation, fund, foundation, trust, or association organized and operated exclusively for the benefit of institutions of higher learning located within the state of Idaho, including a university related research park, to nonprofit private or public institutions of elementary, secondary, or higher education or their foundations located within the state of Idaho, to a nonprofit corporation, fund, foundation, trust or association which is: (i) organized and operated exclusively for the benefit of elementary or secondary education institutions located within the state of Idaho; (ii) officially recognized and designated



by resolution of the applicable governing board as any such elementary or secondary education institution's sole designated supporting organization; and (iii) qualified to be exempt from federal taxation under the terms of section 501(c) (3) of the Internal Revenue Code, for the express purpose of supplementing and enhancing a thorough system of public schools as defined in section 33-1612, Idaho Code, or supplementing and enhancing the private school which is the beneficiary, to Idaho education public broadcast system foundations within the state of Idaho, to the Idaho state historical society or its foundation, to the council for the deaf and hard of hearing, to the developmental disabilities council, to the commission for the blind and visually impaired, to the commission on Hispanic affairs, to the state independent living council, to the Idaho commission for libraries and to public libraries or their foundations and library districts or their foundations located within the state of Idaho, to nonprofit public or private museums or their foundations located within the state of Idaho and to dedicated accounts within the Idaho community foundation inc. that exclusively support the charitable purposes otherwise qualifying for the tax credit authorized under the provisions of this section.

(1) In the case of a taxpayer other than a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed fifty percent (50%) of such taxpayer's total income tax liability imposed by section 63-3024, Idaho Code, for the year, or five hundred dollars (\$500), whichever is less.

(2) In the case of a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed ten percent (10%) of such corporation's total income or franchise tax liability imposed by sections 63-3025 and 63-3025A, Idaho Code, for the year, or five thousand dollars (\$5,000), whichever is less.

For the purposes of this section, "contribution" means monetary donations reduced by the value of any benefit received in return such as food, entertainment or merchandise.

For the purposes of this section, "institution of higher learning" means only an educational institution located within this state meeting all of the following requirements:

(a) It maintains a regular faculty and curriculum and has a regularly enrolled body of students in attendance at the place where its educational activities are carried on.

(b) It regularly offers education above the twelfth grade.

(c) It is accredited by the ~~northwest asseociation of schools and commission on colleges, or by the state board of education and universities.~~

For the purposes of this section, a nonprofit institution of secondary or higher education means a private nonprofit secondary or higher educational institution located within the state of Idaho, which is accredited by the ~~northwest asseociation of schools and commission on colleges and universities,~~ or accredited by a body approved by the state board of education. A nonprofit private institution of elementary education means a private nonprofit elementary educational institution located within the state of Idaho and approved accredited by the state board of education pursuant to section 33-119, Idaho Code.

For the purposes of this section, "organized and operated exclusively for the benefit of elementary or secondary education institutions" means having an explicit provision in the supporting organization's bylaws or other governing document that expressly identifies the elementary or secondary schools, or one (1) or more school districts, in the state of Idaho that will be the exclusive beneficiary of the distributions of the nonprofit corporation, fund, foundation, trust or association.

For the purposes of this section, a nonprofit corporation, fund, foundation, trust or association that invests contributions in an endowment or

otherwise shall be subject to the standards of care imposed under section 33-5003, Idaho Code.

SECTION 2. That Section 3, Chapter 354, Laws of 2010, be, and the same is hereby repealed.

SECTION 3. That Section 63-3029A, Idaho Code, as enacted by Section 4, Chapter 354, Laws of 2010, be, and the same is hereby repealed.

SECTION 4. That Section 5, Chapter 354, Laws of 2010, be, and the same is hereby amended to read as follows:

SECTION 5. This act shall be in full force and effect on and after January 1, 2011. ~~Sections 3 and 4 of this act shall be in full force and effect on and after January 1, 2016.~~

SECTION 5. That Section 63-3029A, Idaho Code, as amended by Section 1 of this act, be, and the same is hereby amended to read as follows:

63-3029A. INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS -- LIMITATION. 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 fifty percent (50%) of the aggregate amount of charitable contributions made by such taxpayer during the year to a nonprofit corporation, fund, foundation, trust, or association organized and operated exclusively for the benefit of institutions of higher learning located within the state of Idaho, including a university related research park, to nonprofit private or public institutions of elementary, secondary, or higher education or their foundations located within the state of Idaho, ~~to a nonprofit corporation, fund, foundation, trust or association which is: (i) organized and operated exclusively for the benefit of elementary or secondary education institutions located within the state of Idaho; (ii) officially recognized and designated by resolution of the applicable governing board as any such elementary or secondary education institution's sole designated supporting organization; and (iii) qualified to be exempt from federal taxation under the terms of section 501(c)(3) of the Internal Revenue Code, for the express purpose of supplementing and enhancing a thorough system of public schools as defined in section 33-1612, Idaho Code, or supplementing and enhancing the private school which is the beneficiary,~~ to Idaho education public broadcast system foundations within the state of Idaho, to the Idaho state historical society or its foundation, to the council for the deaf and hard of hearing, to the developmental disabilities council, to the commission for the blind and visually impaired, to the commission on Hispanic affairs, to the state independent living council, to the Idaho commission for libraries and to public libraries or their foundations and library districts or their foundations located within the state of Idaho, to nonprofit public or private museums or their foundations located within the state of Idaho and to dedicated accounts within the Idaho community foundation inc. that exclusively support the charitable purposes otherwise qualifying for the tax credit authorized under the provisions of this section.

(1) In the case of a taxpayer other than a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed fifty percent (50%) of such taxpayer's total income tax liability imposed by section 63-3024, Idaho Code, for the year, or five hundred dollars (\$500), whichever is less.

(2) In the case of a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed ten percent (10%) of such corporation's total income or franchise tax liability imposed by sec-

tions 63-3025 and 63-3025A, Idaho Code, for the year, or five thousand dollars (\$5,000), whichever is less.

For the purposes of this section, "contribution" means monetary donations reduced by the value of any benefit received in return such as food, entertainment or merchandise.

For the purposes of this section, "institution of higher learning" means only an educational institution located within this state meeting all of the following requirements:

- (a) It maintains a regular faculty and curriculum and has a regularly enrolled body of students in attendance at the place where its educational activities are carried on.
- (b) It regularly offers education above the twelfth grade.
- (c) It is accredited by the northwest commission on colleges and universities.

For the purposes of this section, a nonprofit institution of secondary or higher education means a private nonprofit secondary or higher educational institution located within the state of Idaho, which is accredited by the northwest commission on colleges and universities, or accredited by a body approved by the state board of education. A nonprofit private institution of elementary education means a private nonprofit elementary educational institution located within the state of Idaho and accredited by the state board of education pursuant to section 33-119, Idaho Code.

~~For the purposes of this section, "organized and operated exclusively for the benefit of elementary or secondary education institutions" means having an explicit provision in the supporting organization's bylaws or other governing document that expressly identifies the elementary or secondary schools, or one (1) or more school districts, in the state of Idaho that will be the exclusive beneficiary of the distributions of the nonprofit corporation, fund, foundation, trust or association.~~

For the purposes of this section, a nonprofit corporation, fund, foundation, trust or association that invests contributions in an endowment or otherwise shall be subject to the standards of care imposed under section 33-5003, Idaho Code.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 through 4 of this act shall be in full force and effect on and after passage and approval, and retroactively to January 1, 2015. Section 5 of this act shall be in full force and effect on and after January 1, 2020.

Approved April 1, 2015

CHAPTER 210  
(H.B. No. 236)

AN ACT

RELATING TO TAX INFORMATION; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3077G, IDAHO CODE, TO PROVIDE FOR AN AGREEMENT FOR EXCHANGE OF INFORMATION BETWEEN THE TAX COMMISSION AND THE DEPARTMENT OF CORRECTION CONCERNING THE FOOD TAX CREDIT; AND AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3077H, IDAHO CODE, TO PROVIDE FOR AN AGREEMENT FOR EXCHANGE OF INFORMATION BETWEEN THE TAX COMMISSION AND THE DEPARTMENT OF HEALTH AND WELFARE CONCERNING THE FOOD TAX CREDIT.

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

SECTION 1. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3077G, Idaho Code, and to read as follows:

63-3077G. AGREEMENT FOR EXCHANGE OF INFORMATION WITH THE IDAHO DEPARTMENT OF CORRECTION. The state tax commission and the Idaho department of correction may enter into a written agreement for exchange of information relating to an individual's incarceration status and whether that individual has claimed the Idaho food tax credit pursuant to section 63-3024A, Idaho Code. Such information shall be confidential to the recipient and may be used by the Idaho department of correction and the state tax commission only for purposes of determining whether an incarcerated person erroneously claimed the food tax credit in violation of section 63-3024A(7), Idaho Code. No such information shall be public unless it is used in the course of a judicial proceeding arising under the laws of this state. The information provided by the state tax commission shall be limited to name, date of birth, social security number, an indication as to whether the food tax credit was claimed under that person's name or social security number for a particular taxable year and incarceration status during the year at issue.

SECTION 2. 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 63-3077H, Idaho Code, and to read as follows:

63-3077H. AGREEMENT FOR EXCHANGE OF INFORMATION WITH THE IDAHO DEPARTMENT OF HEALTH AND WELFARE. The state tax commission and the Idaho department of health and welfare may enter into a written agreement for exchange of information relating to an individual's receipt of federal food stamp benefits and whether that individual has claimed the Idaho food tax credit pursuant to section 63-3024A, Idaho Code. Such information shall be confidential to the recipient and may be used by the Idaho department of health and welfare and the state tax commission only for purposes of determining whether a person who was receiving federal food stamp benefits erroneously claimed the food tax credit in violation of section 63-3024A(6), Idaho Code. No such information shall be public unless it is used in the course of a judicial proceeding arising under the laws of this state. Any information disclosed by the Idaho department of health and welfare pursuant to the provisions of this section must be disclosed in compliance with the privacy act of 1974, 5 U.S.C. section 552a, applicable federal law or regulations regarding public assistance programs and any applicable state law or regulation.

Approved April 1, 2015

CHAPTER 211  
(H.B. No. 263)

AN ACT

RELATING TO APPROPRIATIONS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION FOR FISCAL YEAR 2015; AMENDING SECTION 3 OF HOUSE BILL NO. 168, AS ENACTED BY THE FIRST REGULAR SESSION OF THE SIXTY-THIRD IDAHO LEGISLATURE, TO PROVIDE FOR CERTAIN PAYMENTS.

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

SECTION 1. That Section 3 of House Bill No. 168, as enacted by the First Regular Session of the Sixty-third Idaho Legislature, shall be amended to read as follows:

SECTION 3. USE OF FUNDS. It is the intent of the Legislature that the funding provided in Section 2 of this act is for schools to purchase broadband services in an amount equivalent to what was provided through the Idaho Education Network as of February 1, 2015.

(a) The Superintendent of Public Instruction shall require school districts to provide documentation, as determined by the superintendent, to support all funds distributed.

(b) The superintendent shall have the authority to make advances of the money appropriated in Section 2 of this act to school districts as the superintendent deems adequate, as determined by past usage, and of sufficiency to minimize financial difficulties by the school districts while procuring services.

(c) The superintendent shall have the authority to make payments for additional costs incurred by schools, from the money appropriated in Section 2 of this act, if they became ineligible for E-rate reimbursement as a result of purchasing services on the now void Idaho Education Network contract. Once the superintendent determines that the appropriation provided for in Section 2 of this act is sufficient to pay for all costs to maintain broadband services and associated maintenance, then remaining funds may be paid to school districts. If the total remaining funds are insufficient to fully compensate eligible schools, then the superintendent shall prorate reimbursement based upon available funds.

(d) The superintendent shall target the resources necessary for students currently relying on online curricula by coordinating with the Idaho Digital Learning Academy and other providers of online education to identify barriers to completing their courses and finding appropriate solutions. The superintendent shall prioritize assistance to those students who are scheduled to graduate in the spring or winter of 2015.

(de) This is a fixed appropriation and any surplus shall revert back to the General Fund on July 31, 2015. School districts are cautioned that funding from the state for fiscal year 2016 is not included in this act. However, it is the intent of the Legislature to provide funding for these services for fiscal year 2016 as soon as is practicable.

Approved April 1, 2015

CHAPTER 212  
(H.B. No. 264)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISIONS OF MENTAL HEALTH SERVICES, PSYCHIATRIC HOSPITALIZATION AND SUBSTANCE ABUSE TREATMENT AND PREVENTION FOR FISCAL YEAR 2016; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING FOR GENERAL FUND TRANSFERS TO THE COOPERATIVE WELFARE FUND; DIRECTING EXPENDITURES FOR TRUSTEE AND BENEFIT PAYMENTS; PROVIDING LEGISLATIVE INTENT FOR PROGRAM INTEGRITY; LIMITING TRANSFER OF LEGISLATIVE APPROPRIATIONS; CLARIFYING RESPONSIBILITY FOR EDUCATION OF CERTAIN CHILDREN IN STATE CARE; DIRECTING AN INTERAGENCY PAYMENT FOR JUVENILE DETENTION CLINICIANS CONTRACT; PROVIDING FOR COURT SERVICES FUND TRANSFERS; AND PROVIDING LEGISLATIVE INTENT RELATING TO A BEHAVIORAL HEALTH CRISIS CENTER LOCATION.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare, the following amounts to be expended according to the designated

programs and expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>I. MENTAL HEALTH SERVICES:</b>					
<b>A. CHILDREN'S MENTAL HEALTH:</b>					
FROM:					
Cooperative Welfare (General)					
Fund	\$4,084,200	\$630,000		\$3,304,000	\$8,018,200
Cooperative Welfare (Dedicated)					
Fund				164,500	164,500
Cooperative Welfare (Federal)					
Fund	<u>1,951,600</u>	<u>1,356,100</u>		<u>1,117,600</u>	<u>4,425,300</u>
<b>TOTAL</b>	<b>\$6,035,800</b>	<b>\$1,986,100</b>		<b>\$4,586,100</b>	<b>\$12,608,000</b>
<b>B. ADULT MENTAL HEALTH:</b>					
FROM:					
Cooperative Welfare (General)					
Fund	\$13,133,500	\$1,417,600		\$4,657,900	\$19,209,000
Cooperative Welfare (Dedicated)					
Fund	101,400			350,000	451,400
Drug Court, Mental Health and Family Court Services					
Fund	159,800	98,000			257,800
Cooperative Welfare (Federal)					
Fund	<u>2,033,000</u>	<u>1,350,100</u>		<u>803,700</u>	<u>4,186,800</u>
<b>TOTAL</b>	<b>\$15,427,700</b>	<b>\$2,865,700</b>		<b>\$5,811,600</b>	<b>\$24,105,000</b>
<b>DIVISION TOTAL</b>	<b>\$21,463,500</b>	<b>\$4,851,800</b>		<b>\$10,397,700</b>	<b>\$36,713,000</b>
<b>II. PSYCHIATRIC HOSPITALIZATION:</b>					
<b>A. COMMUNITY HOSPITALIZATION:</b>					
FROM:					
Cooperative Welfare (General)					
Fund				\$3,069,000	\$3,069,000
<b>B. STATE HOSPITAL NORTH:</b>					
FROM:					
Cooperative Welfare (General)					
Fund	\$6,487,900	\$497,200	\$33,300	\$22,400	\$7,040,800
Cooperative Welfare (Dedicated)					
Fund	145,300				145,300
State Hospital North Endowment Income					
Fund	<u>371,900</u>	<u>815,200</u>	<u>0</u>	<u>44,500</u>	<u>1,231,600</u>
<b>TOTAL</b>	<b>\$7,005,100</b>	<b>\$1,312,400</b>	<b>\$33,300</b>	<b>\$66,900</b>	<b>\$8,417,700</b>

	FOR	FOR	FOR	FOR	
	PERSONNEL	OPERATING	CAPITAL	TRUSTEE AND	
	COSTS	EXPENDITURES	OUTLAY	BENEFIT	TOTAL
				PAYMENTS	
C. STATE HOSPITAL SOUTH:					
FROM:					
Cooperative Welfare (General)					
Fund	\$8,861,100			\$217,300	\$9,078,400
Cooperative Welfare (Dedicated)					
Fund	3,003,900	\$984,200	\$98,500	900	4,087,500
Mental Hospital Endowment Income					
Fund	2,810,900	1,626,500	145,000		4,582,400
Cooperative Welfare (Federal)					
Fund	<u>3,968,700</u>	<u>1,346,700</u>	<u>42,000</u>	<u>25,800</u>	<u>5,383,200</u>
TOTAL	\$18,644,600	\$3,957,400	\$285,500	\$244,000	\$23,131,500
DIVISION TOTAL	\$25,649,700	\$5,269,800	\$318,800	\$3,379,900	\$34,618,200

III. SUBSTANCE ABUSE TREATMENT AND PREVENTION:

FROM:					
Cooperative Welfare (General)					
Fund	\$526,600	\$573,500		\$1,455,400	\$2,555,500
Prevention of Minors' Access to Tobacco					
Fund	6,600	43,800			50,400
Cooperative Welfare (Dedicated)					
Fund	47,500	438,300			485,800
Liquor Control					
Fund				650,000	650,000
Cooperative Welfare (Federal)					
Fund	<u>846,600</u>	<u>3,459,200</u>		<u>8,628,400</u>	<u>12,934,200</u>
TOTAL	\$1,427,300	\$4,514,800		\$10,733,800	\$16,675,900
GRAND TOTAL	\$48,540,500	\$14,636,400	\$318,800	\$24,511,400	\$88,007,100

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, each of the programs in the Department of Health and Welfare listed below is authorized no more than the number of full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Adult Mental Health	207.49
Children's Mental Health	79.67
State Hospital North	100.27
State Hospital South	268.85
Substance Abuse Treatment and Prevention	16.72

SECTION 3. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers from the General Fund to the Cooperative Welfare Fund periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 4. TRUSTEE AND BENEFIT PAYMENTS. Notwithstanding the provisions of Section 67-3511, Idaho Code, funds budgeted in the trustee and benefit payments expenditure class shall not be transferred to any other expense class during fiscal year 2016.

SECTION 5. PROGRAM INTEGRITY. Notwithstanding any other provisions of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources appropriated for each budgeted program.

SECTION 6. LIMITING TRANSFER OF LEGISLATIVE APPROPRIATIONS. Notwithstanding the provisions of Section 67-3511, Idaho Code, Cooperative Welfare (General) Fund moneys appropriated to the Adult Mental Health Program and Children's Mental Health Program shall not be transferred to any other program outside of Mental Health Services without legislative approval.

SECTION 7. LEGISLATIVE INTENT. It is the finding of the Legislature that the Department of Health and Welfare is responsible for the educational needs of school-age children placed in their custody by the courts for either child protective or for mental health issues. If the Department of Health and Welfare places a child in a licensed residential treatment facility that includes a non-public accredited school, and it is determined by the Department of Health and Welfare that it is in the best interests of the child to be educated at the residential treatment facility, then it is the responsibility of the Department of Health and Welfare to pay for such education at the rate of \$71.05 per student per educational day. This intent language does not preclude other Idaho state agencies from exercising their responsibility to ensure a free and appropriate education for these students within the requirements of federal disability law. The fiscal impact of this language is approximately \$690,000 from existing appropriations.

SECTION 8. INTERAGENCY PAYMENT FOR JUVENILE DETENTION CLINICIANS CONTRACT. The Children's Mental Health Program shall, no later than July 16, 2015, make an interagency payment of \$327,000 from the Cooperative Welfare (General) Fund to the Department of Juvenile Corrections to be used for the purchase of contract clinician services with juvenile detention facilities in Idaho, for the period July 1, 2015, through June 30, 2016.

SECTION 9. COURT SERVICES FUND TRANSFERS. As appropriated, the State Controller shall make transfers from the Court Services Fund to the Cooperative Welfare Fund periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 10. BEHAVIORAL HEALTH CRISIS CENTER LOCATION. It is the intent of the Legislature that \$1,720,000 of the amount provided in Section 1 of this act is for a Behavioral Health Crisis Center, to be located in Health and Welfare Region 1 or Region 2. The communities have demonstrated the need for additional behavioral health services and the willingness to support a Behavioral Health Crisis Center. This center will be in addition to the first crisis center that was funded by the appropriation made in Section 1, Chapter 315, Laws of 2014.



CHAPTER 213  
(H.B. No. 268)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 2015; APPROPRIATING MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 2016; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; EXEMPTING CERTAIN APPROPRIATION OBJECT TRANSFER LIMITATIONS; PROVIDING LEGISLATIVE INTENT; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 211, Laws of 2014, and any other appropriation provided for by law, there is hereby appropriated to the Department of Lands, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2014, through June 30, 2015:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Department of Lands				
Fund	\$9,700		\$300	\$10,000
Endowment Administrative				
Fund	<u>22,400</u>	<u>\$36,300</u>	<u>900</u>	<u>59,600</u>
TOTAL	\$32,100	\$36,300	\$1,200	\$69,600

SECTION 2. There is hereby appropriated to the Department of Lands, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. SUPPORT SERVICES:					
FROM:					
General					
Fund	\$283,100	\$297,800	\$40,300		\$621,200
Department of Lands					
Fund	484,700	327,400	83,700		895,800
Indirect Cost Recovery					
Fund	63,800	128,200			192,000
Endowment Administrative					
Fund	<u>2,145,400</u>	<u>1,425,000</u>	<u>313,900</u>		<u>3,884,300</u>
TOTAL	\$2,977,000	\$2,178,400	\$437,900		\$5,593,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>II. FOREST RESOURCES MANAGEMENT:</b>					
FROM:					
General					
Fund	\$801,100	\$146,800	\$34,200		\$982,100
Department of Lands					
Fund	819,500	423,600	38,500		1,281,600
Indirect Cost Recovery					
Fund	108,500	470,100			578,600
Endowment Administrative					
Fund	9,945,400	7,195,600	549,900		17,690,900
Community Forestry					
Fund		20,000		\$20,000	40,000
Federal Grant					
Fund	<u>764,800</u>	<u>1,112,700</u>	<u>5,500</u>	<u>3,115,400</u>	<u>4,998,400</u>
TOTAL	\$12,439,300	\$9,368,800	\$628,100	\$3,135,400	\$25,571,600
<b>III. LANDS AND WATERWAYS:</b>					
FROM:					
General					
Fund	\$1,089,000	\$239,500	\$14,300		\$1,342,800
Department of Lands					
Fund	337,800	1,148,900	500		1,487,200
Endowment Administrative					
Fund	<u>2,385,400</u>	<u>4,896,000</u>	<u>221,700</u>		<u>7,503,100</u>
TOTAL	\$3,812,200	\$6,284,400	\$236,500		\$10,333,100
<b>IV. FOREST AND RANGE FIRE PROTECTION:</b>					
FROM:					
General					
Fund	\$1,299,100	\$457,900		\$770,000	\$2,527,000
Department of Lands					
Fund	2,792,900	791,600	\$364,700	873,000	4,822,200
Fire Suppression Deficiency					
Fund	129,500	22,100			151,600
Federal Grant					
Fund	<u>728,100</u>	<u>400,000</u>	<u>0</u>	<u>250,000</u>	<u>1,378,100</u>
TOTAL	\$4,949,600	\$1,671,600	\$364,700	\$1,893,000	\$8,878,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
V. SCALING PRACTICES:					
FROM:					
Department of Lands					
Fund	\$193,000	\$46,600	\$25,300		\$264,900
GRAND TOTAL	\$24,371,100	\$19,549,800	\$1,692,500	\$5,028,400	\$50,641,800

SECTION 3. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Lands is authorized no more than two hundred eighty-three and twelve hundredths (283.12) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. EXEMPTIONS FROM OBJECT TRANSFER LIMITATIONS. For fiscal year 2016, the Department of Lands 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 for the Forest and Range Fire Protection Program for the period July 1, 2015, through June 30, 2016. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 5. LEGISLATIVE INTENT REGARDING FLAT TOP BUTTE. Of the amount appropriated to the Military Division from the Administration and Accounting Services Fund, \$18,100 in one-time spending authority is included to pay the Department of Lands for back rent due on the Flat Top Butte communication site that is located on endowment trust property. It does not include funding for any interest or penalties that may have been assessed, due, and owing; and the Department of Lands shall not bill the Military Division for such amounts.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved April 1, 2015

CHAPTER 214  
(H.B. No. 271)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE STATE APPELLATE PUBLIC DEFENDER FOR FISCAL YEAR 2016; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING LEGISLATIVE INTENT FOR THE PAYMENT OF OUTSIDE COUNSEL COSTS; PROVIDING LEGISLATIVE INTENT FOR THE PAYMENT OF CAPITAL REPRESENTATION COSTS; AND PROVIDING FOR A CASH TRANSFER.

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, the following amounts to be expended according to the designated programs and expense classes, from the listed funds, for the period July 1, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. OFFICE OF STATE APPELLATE PUBLIC DEFENDER:			
FROM:			
General			
Fund	\$1,971,100	\$177,800	\$2,148,900
Miscellaneous Revenue			
Fund	0	25,000	25,000
TOTAL	\$1,971,100	\$202,800	\$2,173,900
II. CAPITAL AND CONFLICT REPRESENTATION:			
FROM:			
General			
Fund		\$302,400	\$302,400
GRAND TOTAL	\$1,971,100	\$505,200	\$2,476,300

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-three (23) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. OUTSIDE COUNSEL COSTS. Of the amount appropriated in Section 1 of this act, \$207,500 from the General Fund, or so much thereof as is necessary, shall be used solely to pay outside counsel for noncapital appeals in which a conflict of interest is identified in accordance with the Idaho Rules of Professional Conduct and only to the extent such costs are exclusive of, and can be identified and accounted for separately and distinctly from, capital representation costs and the operating, personnel and capital outlay costs of the Office of the State Appellate Public Defender Program. Any remaining unexpended and unencumbered amounts not so used shall revert to the General Fund.

SECTION 4. CAPITAL REPRESENTATION COSTS. Of the amount appropriated in Section 1 of this act, \$94,900 from the General Fund, or so much thereof as is necessary, shall be used solely for costs directly related to the provision of representation in capital cases and only to the extent such costs are exclusive of, and can be identified and accounted for separately and distinctly from, outside counsel costs of noncapital appeals and the operating, personnel and capital outlay costs of the Office of the State Appellate Public Defender Program. Such costs may include, but are not limited to, consultation with experts; travel, lodging, and per diem for expert and lay witnesses; depositions; investigation; employee travel associated with witness interviews; court reporting and transcription services; expert witness fees; outside counsel in the event of a conflict of interest; and preparation of trial exhibits. Any remaining unexpended and unencumbered amounts not so used shall revert to the General Fund.

SECTION 5. CASH TRANSFER. There is hereby appropriated and the State Controller shall transfer \$25,000 from the Miscellaneous Revenue Fund (0349-00) within the Department of Juvenile Corrections to the Miscellaneous Revenue Fund (0349-00) within the Office of the State Appellate Public Defender on July 1, 2015, or as soon thereafter as is practicable, for the period July 1, 2015, through June 30, 2016.

Approved April 1, 2015

CHAPTER 215  
(H.B. No. 273)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 2016; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; APPROPRIATING AND TRANSFERRING MONEYS; AND PROVIDING LEGISLATIVE INTENT TO COMMENCE THE ADJUDICATION OF THE PALOUSE RIVER BASIN.

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

SECTION 1. There is hereby appropriated to the Department of Water Resources, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MANAGEMENT AND SUPPORT SERVICES:					
FROM:					
General					
Fund	\$851,300	\$1,002,300	\$168,700		\$2,022,300
Indirect Cost Recovery					
Fund	461,500	148,700			610,200
Water Administration					
Fund	47,700	21,700			69,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>Miscellaneous Revenue</b>					
Fund	<u>0</u>	<u>137,600</u>	<u>0</u>		<u>137,600</u>
TOTAL	\$1,360,500	\$1,310,300	\$168,700		\$2,839,500
<b>II. PLANNING AND TECHNICAL SERVICES:</b>					
FROM:					
<b>General</b>					
Fund	\$2,276,000	\$613,200	\$5,000	\$582,000	\$3,476,200
<b>Indirect Cost Recovery</b>					
Fund		12,400			12,400
<b>Aquifer Planning and Management</b>					
Fund	804,600	418,600			1,223,200
<b>Miscellaneous Revenue</b>					
Fund		164,500			164,500
<b>Federal Grant</b>					
Fund	<u>521,100</u>	<u>2,309,500</u>	<u>0</u>	<u>0</u>	<u>2,830,600</u>
TOTAL	\$3,601,700	\$3,518,200	\$5,000	\$582,000	\$7,706,900
<b>III. WATER MANAGEMENT:</b>					
FROM:					
<b>General</b>					
Fund	\$4,219,900	\$1,941,300	\$94,000		\$6,255,200
<b>Indirect Cost Recovery</b>					
Fund		4,700			4,700
<b>Water Administration</b>					
Fund	1,155,200	223,600			1,378,800
<b>Miscellaneous Revenue</b>					
Fund	800,800	282,400			1,083,200
<b>Federal Grant</b>					
Fund	<u>560,400</u>	<u>334,400</u>	<u>0</u>		<u>894,800</u>
TOTAL	\$6,736,300	\$2,786,400	\$94,000		\$9,616,700
<b>IV. NORTHERN IDAHO ADJUDICATION:</b>					
FROM:					
<b>General</b>					
Fund	\$242,400	\$165,600			\$408,000
<b>Northern Idaho Adjudication</b>					
Fund	<u>76,000</u>	<u>36,100</u>			<u>112,100</u>
TOTAL	\$318,400	\$201,700			\$520,100
<b>GRAND TOTAL</b>	<b>\$12,016,900</b>	<b>\$7,816,600</b>	<b>\$267,700</b>	<b>\$582,000</b>	<b>\$20,683,200</b>

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Water Resources is authorized no more than one hundred fifty-two (152) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. There is hereby appropriated to the Department of Water Resources and the State Controller shall transfer \$716,000 from the Revolving Development Fund to the Aquifer Planning and Management Fund, on July 1, 2015, or as soon thereafter as practicable, for the period July 1, 2015, through June 30, 2016.

SECTION 4. LEGISLATIVE INTENT. It is the intent of the Legislature that, in accordance with Section 42-1406B(1), Idaho Code, the director of the Idaho Department of Water Resources file a petition with the adjudication court in Twin Falls, Idaho, to commence a water rights adjudication of the Palouse River Basin.

Approved April 1, 2015

CHAPTER 216  
(H.B. No. 274)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE WELFARE DIVISION FOR FISCAL YEAR 2016; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING FOR GENERAL FUND TRANSFERS TO THE COOPERATIVE WELFARE FUND; DIRECTING EXPENDITURES FOR TRUSTEE AND BENEFIT PAYMENTS; PROVIDING LEGISLATIVE INTENT FOR PROGRAM INTEGRITY; AND REQUIRING BIENNIAL REPORTS.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for the Welfare Division, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. SELF-RELIANCE OPERATIONS:				
FROM:				
Cooperative Welfare (General)				
Fund	\$13,635,900	\$5,892,100		\$19,528,000
Cooperative Welfare (Dedicated)				
Fund	1,223,400	6,767,900		7,991,300
Cooperative Welfare (Federal)				
Fund	<u>24,886,800</u>	<u>15,508,000</u>		<u>40,394,800</u>
TOTAL	\$39,746,100	\$28,168,000		\$67,914,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. BENEFIT PAYMENTS:				
FROM:				
Cooperative Welfare (General)				
Fund			\$19,927,500	\$19,927,500
Cooperative Welfare (Dedicated)				
Fund			250,200	250,200
Cooperative Welfare (Federal)				
Fund			<u>61,453,700</u>	<u>61,453,700</u>
TOTAL			\$81,631,400	\$81,631,400
GRAND TOTAL	\$39,746,100	\$28,168,000	\$81,631,400	\$149,545,500

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare for the Welfare Division is authorized no more than six hundred thirty-four and fifty-five hundredths (634.55) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 4. TRUSTEE AND BENEFIT PAYMENTS. Notwithstanding the provisions of Section 67-3511, Idaho Code, funds budgeted in the trustee and benefit payments expenditure class shall not be transferred to any other expense class during fiscal year 2015.

SECTION 5. PROGRAM INTEGRITY. Notwithstanding any other provisions of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources appropriated for each budgeted program.

SECTION 6. ACTUAL AND FORECAST DETAIL REPORTING. The Division of Welfare shall deliver the Self-Reliance Programs Forecast biannually to the Legislative Services Office and Division of Financial Management. The report shall include monthly caseload details for Temporary Assistance for Needy Families (TANF), Child Care, Medicaid, Advanced Premium Tax Credit (APTC), Aid to the Aged, Blind and Disabled, Food Stamps, and Child Support programs. The Self-Reliance Programs Forecast shall also include expenditure details for all of the named programs with the exception of Medicaid. The format of the report, and any additional information contained therein, shall be determined by the Legislative Services Office and Division of Financial Management. The first report shall be submitted no later than December 31, 2015, and the second report shall be submitted no later than June 30, 2016.



CHAPTER 217  
(S.B. No. 1076)

AN ACT

RELATING TO BENEFIT CORPORATIONS; AMENDING TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 20, TITLE 30, IDAHO CODE, TO PROVIDE A SHORT TITLE AND STATE THE APPLICATION AND EFFECT OF THIS CHAPTER, TO DEFINE TERMS, TO ESTABLISH INCORPORATION REQUIREMENTS FOR BENEFIT CORPORATIONS, TO ESTABLISH THE PROCESS UNDER WHICH BENEFIT CORPORATION STATUS IS ADOPTED, TO ESTABLISH THE PROCESS UNDER WHICH BENEFIT CORPORATION STATUS IS TERMINATED, TO DESCRIBE THE PURPOSES OF BENEFIT CORPORATIONS, TO ESTABLISH STANDARDS OF CONDUCT FOR DIRECTORS, TO PROVIDE THAT CERTAIN BENEFIT CORPORATIONS SHALL HAVE AND OTHERS MAY HAVE A BENEFIT DIRECTOR AND TO ESTABLISH RULES RELATING TO THE BENEFIT DIRECTOR, TO ESTABLISH STANDARDS OF CONDUCT FOR OFFICERS, TO PROVIDE THAT BENEFIT CORPORATIONS MAY HAVE A BENEFIT OFFICER WHO PERFORMS CERTAIN DUTIES, TO PROVIDE RULES FOR BRINGING AN ACTION AGAINST A BENEFIT CORPORATION, TO REQUIRE AN ANNUAL BENEFIT REPORT AND TO REQUIRE THE BENEFIT REPORT BE MADE AVAILABLE TO CERTAIN PERSONS AND THE PUBLIC.

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

SECTION 1. That Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 20, Title 30, Idaho Code, and to read as follows:

CHAPTER 20  
IDAHO BENEFIT CORPORATION ACT

30-2001. APPLICATION AND EFFECT OF THIS CHAPTER. (1) This chapter may be known and cited as the "Idaho Benefit Corporation Act."

(2) This chapter shall be applicable to all benefit corporations.

(3) The existence of a provision of this chapter shall not of itself create an implication that a contrary or different rule of law is applicable to a business corporation that is not a benefit corporation. This chapter shall not affect a statute or rule of law that is applicable to a business corporation that is not a benefit corporation.

(4) Except as otherwise provided in this chapter, the Idaho business corporation act shall be generally applicable to all benefit corporations. A benefit corporation may be subject simultaneously to this chapter and other chapters of this title. The provisions of this chapter shall control over other provisions of this title, including chapters 1 and 13 of this title.

(5) A provision of the articles of incorporation or bylaws of a benefit corporation may not limit, be inconsistent with or supersede a provision of this chapter.

30-2002. DEFINITIONS. In this chapter:

(1) "Benefit corporation" means a business corporation that has elected to become subject to this chapter and the status of which as a benefit corporation has not been terminated.

(2) "Benefit director" means the director designated as the benefit director of a benefit corporation under section 30-2008, Idaho Code.

(3) "Benefit enforcement proceeding" means any claim, action or proceeding for failure of a benefit corporation to pursue or create general public benefit or a specific public benefit purpose as set forth in its articles, or violation of any obligation, duty or standard of conduct under this chapter.

(4) "Benefit officer" means the individual designated as the benefit officer of a benefit corporation under section 30-2010, Idaho Code.

(5) "General public benefit" means a material positive impact on society and the environment, taken as a whole, as assessed under a third-party standard, resulting from the business and operations of a benefit corporation.

(6) "Independent" means having no material relationship with a benefit corporation or a subsidiary of the benefit corporation; provided however, that serving as a benefit director or benefit officer does not by itself preclude a person from being independent. A material relationship between an individual and a benefit corporation or any of its subsidiaries will be conclusively presumed to exist if any of the following apply:

(a) The individual is or has been within the last three (3) years an employee other than a benefit officer of the benefit corporation or a subsidiary.

(b) An immediate family member of the individual is or has been within the last three (3) years an executive officer other than a benefit officer of the benefit corporation or a subsidiary.

(c) There is beneficial or record ownership of five percent (5%) or more of the outstanding shares of the benefit corporation, calculated as if all outstanding rights to acquire equity interests in the benefit corporation had been exercised, by:

(i) The individual; or

(ii) An entity:

1. Of which the individual is a director, an officer or a manager; or

2. In which the individual owns beneficially or of record five percent (5%) or more of the outstanding equity interests, calculated as if all outstanding rights to acquire equity interests in the entity had been exercised.

(7) "Minimum status vote" means:

(a) In the case of a business corporation, in addition to any other required approval or vote, the satisfaction of the following conditions:

(i) The shareholders of every class or series shall be entitled to vote as a separate voting group on the corporate action regardless of a limitation stated in the articles of incorporation or bylaws on the voting rights of any class or series.

(ii) The corporate action must be approved by vote of the shareholders of each class or series entitled to cast at least two-thirds (2/3) of the votes that all shareholders of the class or series are entitled to cast on the action.

(b) In the case of a domestic entity other than a business corporation, in addition to any other required approval, vote or consent, the satisfaction of the following conditions:

(i) The holders of every class or series of equity interest in the entity that are entitled to receive a distribution of any kind from the entity shall be entitled to vote on or consent to the action regardless of any otherwise applicable limitation on the voting or consent rights of any class or series.

(ii) The action must be approved by vote or consent of the holders entitled to cast at least two-thirds (2/3) of the votes or consents that all of those holders are entitled to cast on the action.

(8) "Publicly traded corporation" means a business corporation that has shares listed on a national securities exchange or traded in a market maintained by one (1) or more members of a national securities association.

(9) "Specific public benefit" includes:

(a) Providing low-income or underserved individuals or communities with beneficial products or services;

- (b) Promoting economic opportunity for individuals or communities beyond the creation of jobs in the normal course of business;
- (c) Protecting or restoring the environment;
- (d) Improving human health;
- (e) Promoting the arts, sciences or advancement of knowledge;
- (f) Increasing the flow of capital to entities with a purpose to benefit society or the environment; or
- (g) Conferring any other particular benefit on society or the environment.

(10) "Subsidiary" means, in relation to a person, an entity in which the person owns beneficially or of record fifty percent (50%) or more of the outstanding equity interests, calculated as if all outstanding rights to acquire equity interests in the entity had been exercised.

(11) "Third-party standard" means a recognized standard for defining, reporting and assessing corporate social and environmental performance that is:

- (a) Comprehensive in that it assesses the effect of the business and its operations on the interests listed in section 30-2007(1), Idaho Code;
- (b) Developed by an entity that is not controlled by the benefit corporation;
- (c) Credible in that it is developed by an entity that both has access to necessary expertise to assess overall corporate social and environmental performance, and uses a balanced multi-stakeholder approach to develop the standard, including a reasonable public comment period; and
- (d) Transparent in that information about the standard is publicly available, including information about:
  - (i) The criteria and weighting of such criteria used in the standard;
  - (ii) The identity of those who developed or revised the standard; and
  - (iii) An accounting of the revenue and sources of financial support for the entity that developed the standard, with sufficient detail to disclose any relationships that could reasonably be considered to present a potential conflict of interest.

30-2003. INCORPORATION. A benefit corporation shall be incorporated in accordance with part 2, chapter 1, title 30, Idaho Code, but its articles of incorporation must also state that it is a benefit corporation.

30-2004. ELECTION OF BENEFIT CORPORATION STATUS. (1) An existing business corporation may become a benefit corporation under this chapter by amending its articles of incorporation so that they contain a statement that the corporation is a benefit corporation. In order to be effective, the amendment must be adopted by at least the minimum status vote.

(2) (a) Except as provided in paragraph (b) of this subsection, if a domestic entity that is not a benefit corporation is a party to a merger or conversion or the exchanging entity in an interest exchange and the surviving or converted entity in the merger, conversion or interest exchange is to be a benefit corporation, the plan of merger, conversion or interest exchange must be approved by the domestic entity by at least the minimum status vote.

(b) Paragraph (a) of this subsection does not apply in the case of a corporation that is a party to a merger if the shareholders of the corporation are not entitled to vote on the merger pursuant to section 30-1-1105, Idaho Code.

30-2005. TERMINATION OF STATUS. (1) A benefit corporation may terminate its status as such and cease to be subject to this chapter by amending its articles of incorporation to delete the provision adopting benefit cor-

poration status. In order to be effective, the amendment must be adopted by at least the minimum status vote.

(2) (a) Except as provided in paragraph (b) of this subsection, if a plan of merger, conversion or share exchange would have the effect of terminating the status of a business corporation as a benefit corporation, the plan must be adopted by at least the minimum status vote in order to be effective.

(b) Paragraph (a) of this subsection does not apply in the case of a corporation that is a party to a merger if the shareholders of the corporation are not entitled to vote on the merger pursuant to section 30-1-1105, Idaho Code.

(3) Any sale, lease, exchange or other disposition of all or substantially all of the assets of a benefit corporation, unless the transaction is in the usual and regular course of business, shall not be effective unless the transaction is approved by at least the minimum status vote.

30-2006. CORPORATE PURPOSES. (1) A benefit corporation shall have a purpose of creating general public benefit. This purpose is in addition to its purpose under section 30-1-301, Idaho Code.

(2) The articles of incorporation of a benefit corporation may identify one (1) or more specific public benefits that it is the purpose of the benefit corporation to create in addition to its purposes under section 30-1-301, Idaho Code, and subsection (1) of this section. The identification of a specific public benefit under this subsection does not limit the purpose of a benefit corporation to create general public benefit under subsection (1) of this subsection.

(3) The creation of general public benefit and specific public benefits under subsections (1) and (2) of this section is in the best interests of the benefit corporation.

(4) A benefit corporation may amend its articles of incorporation to add, amend or delete the identification of a specific public benefit that it is the purpose of the benefit corporation to create. In order to be effective, the amendment must be adopted by at least the minimum status vote.

(5) A professional corporation that is a benefit corporation does not violate section 30-1-1303(2), Idaho Code, by having the purpose to create general public benefit or a specific public benefit.

30-2007. STANDARD OF CONDUCT FOR DIRECTORS. (1) In discharging the duties of their respective positions and in considering the best interests of the benefit corporation, the board of directors, committees of the board and individual directors of a benefit corporation shall consider the effects of any action or inaction on:

- (a) The shareholders of the benefit corporation;
- (b) The employees of the benefit corporation;
- (c) The subsidiaries and suppliers of the benefit corporation;
- (d) The interests of customers as beneficiaries of the general public benefit or specific public benefit purposes of the benefit corporation;
- (e) Community and social factors, including those of each community in which offices or facilities of the benefit corporation, its subsidiaries, or its suppliers are located;
- (f) The local and global environment;
- (g) The short-term and long-term interests of the benefit corporation, including benefits that may accrue to the benefit corporation from its long-term plans and the possibility that these interests may be best served by the continued independence of the benefit corporation; and
- (h) The ability of the benefit corporation to accomplish its general public benefit purpose and any specific public benefit purpose.

(2) In discharging the duties of their respective positions and in considering the best interests of the benefit corporation, the board of direc-

tors, committees of the board and individual directors of a benefit corporation may also consider any other pertinent factors or the interests of any group that they deem appropriate.

(3) The board of directors, committees of the board and individual directors of a benefit corporation need not give priority to a particular interest or factor referred to in subsection (1) or (2) of this section over any other interest or factor unless the benefit corporation has stated in its articles of incorporation its intention to give priority to certain interests or factors related to its accomplishment of its general public benefit or of a specific public benefit purpose identified in its articles of incorporation.

(4) The consideration of interests and factors in the manner required by this section does not constitute a violation of section 30-1-830, Idaho Code.

(5) Except as provided in the articles of incorporation, a director is not personally liable for monetary damages for:

(a) Any action or inaction in the course of performing the duties of a director under subsection (1) of this section if the director performed the duties of office in compliance with section 3-1-830, Idaho Code, and this section; or

(b) Failure of the benefit corporation to pursue or create general public benefit or specific public benefit.

(6) A director does not have a duty to a person that is a beneficiary of the general public benefit purpose or a specific public benefit purpose of a benefit corporation arising from the status of the person as a beneficiary.

30-2008. BENEFIT DIRECTOR. (1) The board of directors of a benefit corporation that is a publicly traded corporation shall, and the board of any other benefit corporation may, include a director who shall be designated the benefit director, and shall have, in addition to the powers, duties, rights and immunities of the other directors of the benefit corporation, the powers, duties, rights and immunities provided in this chapter.

(2) The benefit director shall be elected and may be removed in the manner provided in sections 30-1-803 through 30-1-809, Idaho Code. Except as provided in subsection (6) of this section, the benefit director shall be an individual who is independent. The benefit director may serve as the benefit officer at the same time as serving as the benefit director. The articles of incorporation or bylaws of a benefit corporation may prescribe additional qualifications of the benefit director not inconsistent with this subsection.

(3) The benefit director shall prepare and the benefit corporation shall include in the annual benefit report to shareholders required by section 30-2012, Idaho Code, the opinion of the benefit director on the following:

(a) Whether the benefit corporation acted in accordance with its general public benefit purpose and any specific public benefit purpose in all material respects during the period covered by the report;

(b) Whether the directors and officers complied with sections 30-2007 and 30-2009, Idaho Code, respectively; and

(c) If, in the opinion of the benefit director, the benefit corporation or its directors or officers failed to act or comply in the manner described in paragraphs (a) and (b) of this subsection, a description of the ways in which the benefit corporation or its directors or officers failed to act or comply.

(4) The act or inaction of an individual in the capacity of a benefit director shall constitute for all purposes an act or inaction of that individual in the capacity of a director of the benefit corporation.

(5) Regardless of whether the articles of incorporation or bylaws of a benefit corporation include a provision eliminating or limiting the per-

sonal liability of directors authorized by section 30-1-202, Idaho Code, a benefit director shall not be personally liable for an act or omission in the capacity of a benefit director unless the act or omission constitutes self-dealing, willful misconduct or a knowing violation of law.

(6) The benefit director of a professional corporation organized under chapter 13, title 30, Idaho Code, does not need to be independent.

30-2009. STANDARD OF CONDUCT FOR OFFICERS. (1) Each officer of a benefit corporation shall consider the interests and factors as provided in section 30-2007, Idaho Code, if the officer has discretion to act with respect to a matter, and it reasonably appears to the officer that the matter may have a material effect on the creation by the benefit corporation of general public benefit or a specific public benefit identified in the articles of incorporation.

(2) The consideration of interests and factors as provided in subsection (1) of this section shall not constitute a violation of sections 30-1-841 and 30-1-842, Idaho Code.

(3) Except as provided in the articles of incorporation or bylaws, an officer is not personally liable for monetary damages for:

(a) An action or inaction as an officer in the course of performing the duties of an officer under subsection (1) of this section if the officer performed the duties of the position in compliance with sections 30-1-841 and 30-1-842, Idaho Code, and this section; or

(b) Failure of the benefit corporation to pursue or create general public benefit or specific public benefit.

(4) An officer does not have a duty to a person that is a beneficiary of the general public benefit purpose or a specific public benefit purpose of a benefit corporation arising from the status of the person as a beneficiary.

30-2010. BENEFIT OFFICER. A benefit corporation may have an officer designated the benefit officer. The benefit officer shall have:

(1) The powers and duties relating to the purpose of the corporation to create general public benefit or specific public benefit provided by the bylaws or, absent controlling provisions by the bylaws, by resolutions or orders of the board of directors; and

(2) The duty to prepare the benefit report required in section 30-2012, Idaho Code.

30-2011. RIGHT OF ACTION. (1) Except in a benefit enforcement proceeding, no person may bring an action or assert a claim against a benefit corporation or its directors or officers with respect to the corporation's failure to pursue or create general public benefit or a specific public benefit set forth in its articles of incorporation, or the corporation's violation of an obligation, duty or standard of conduct under this chapter.

(2) A benefit corporation shall not be liable for monetary damages under this chapter for any failure of the benefit corporation to pursue or create general public benefit or a specific public benefit.

(3) A benefit enforcement proceeding may be commenced or maintained directly by the benefit corporation, or derivatively by:

(a) A person or group of persons that owned beneficially or of record at least two percent (2%) of the total number of shares of a class or series outstanding at the time of the act or omission complained of;

(b) A director;

(c) A person or group of persons that owned beneficially or of record five percent (5%) or more of the outstanding equity interests in an entity of which the benefit corporation is a subsidiary at the time of the act or omission complained of; or

(d) Other persons as specified in the articles of incorporation or bylaws of the benefit corporation.

(4) For purposes of this section, a person is the beneficial owner of shares or equity interests if the shares or equity interests are held in a voting trust or by a nominee on behalf of the beneficial owner.

30-2012. PREPARATION OF ANNUAL BENEFIT REPORT. (1) A benefit corporation shall prepare an annual benefit report including the following:

(a) A narrative description of:

(i) The ways in which the benefit corporation pursued general public benefit during the year and the extent to which general public benefit was created;

(ii) The ways in which the benefit corporation pursued a specific public benefit that the articles of incorporation describe as the purpose of the benefit corporation to create, and the extent to which the specific public benefit was created;

(iii) Any circumstances that hindered the creation by the benefit corporation of either general public benefit or specific public benefit; and

(iv) The process and rationale for selecting or changing the third-party standard used to prepare the benefit report.

(b) An assessment of the overall social and environmental performance of the benefit corporation under a third-party standard applied consistently with any application of that standard in prior benefit reports, or accompanied by an explanation of the reasons for any inconsistent application, or the change to that standard from the one used in the immediate prior report.

(c) The name of the benefit director and the benefit officer, if any, and the address to which correspondence to each of them may be directed.

(d) The compensation paid by the benefit corporation during the year to each director in the capacity of a director.

(e) The opinion of the benefit director described in section 30-2008(3), Idaho Code.

(f) A statement of any connection between the organization that established the third-party standard, or its directors, officers or any holder of five percent (5%) or more of the governance interests in the organization, and the benefit corporation or its directors, officers or any holder of five percent (5%) or more of the outstanding shares of the benefit corporation, including any financial or governance relationship that might materially affect the credibility of the use of the third-party standard.

(g) If the benefit corporation has dispensed with or restricted the discretion or powers of the board of directors, a description of the persons who exercise the powers, duties, and rights and who have the immunities of the board of directors, and the benefit director.

(2) If, during the year covered by a benefit report, a benefit director resigned from or refused to stand for reelection to the position of benefit director, or was removed from the position of benefit director, and the benefit director furnished the benefit corporation with any written correspondence concerning the circumstances surrounding the resignation, refusal or removal, the benefit report shall include that correspondence as an exhibit.

(3) Neither the benefit report nor the assessment of the performance of the benefit corporation in the benefit report required in subsection (1) of this section needs to be audited or certified by a third party.

30-2013. AVAILABILITY OF ANNUAL BENEFIT REPORT. (1) A benefit corporation shall send its annual benefit report to each shareholder either one hundred twenty (120) days following the end of the fiscal year of the benefit corporation, or at the same time that the benefit corporation delivers any other annual report to its shareholders, whichever is earlier.

(2) A benefit corporation shall post all of its benefit reports on the public portion of its website, if any; but the compensation paid to directors and financial or proprietary information included in the benefit reports may be omitted from the benefit reports as posted.

(3) If a benefit corporation does not have a website, the benefit corporation shall provide a copy of its most recent benefit report, without charge, to any person who requests a copy, provided however, that the compensation paid to directors and financial or proprietary information included in the benefit report may be omitted from the copy of the benefit report provided.

(4) Concurrently with the delivery of the benefit report to shareholders under subsection (1) of this section, the benefit corporation shall deliver a copy of the benefit report to the secretary of state for filing, provided however, that the compensation paid to directors and financial or proprietary information included in the benefit report may be omitted from the benefit report as delivered to the secretary of state. The secretary of state shall charge a fee for filing a benefit report, such fee to be set in a rule promulgated by the secretary.

Approved April 2, 2015

CHAPTER 218  
(H.B. No. 1)

AN ACT

RELATING TO STATE SYMBOLS; AMENDING CHAPTER 45, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-4514, IDAHO CODE, TO PROVIDE THAT THE IDAHO GIANT SALAMANDER IS DESIGNATED AND DECLARED TO BE THE STATE AMPHIBIAN OF THE STATE OF IDAHO.

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

SECTION 1. That Chapter 45, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-4514, Idaho Code, and to read as follows:

67-4514. STATE AMPHIBIAN DESIGNATED. The Idaho Giant Salamander is hereby designated and declared to be the state amphibian of the state of Idaho.

Approved April 2, 2015

CHAPTER 219  
(H.B. No. 113, As Amended in the Senate)

AN ACT

RELATING TO PARENT AND CHILD; AMENDING CHAPTER 10, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-1010, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT; AMENDING CHAPTER 10, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-1011, IDAHO CODE, TO PROVIDE THE PARENTAL RIGHT TO DIRECT THE CARE, CUSTODY AND CONTROL OF CHILDREN; AMENDING CHAPTER 10, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-1012, IDAHO CODE, TO PROVIDE THE PARENTAL RIGHT TO DIRECT THE EDUCATION OF CHILDREN; AMENDING CHAPTER 10, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW



SECTION 32-1013, IDAHO CODE, TO RESTRICT INTERFERENCE WITH FUNDAMENTAL PARENTAL RIGHTS, TO PROVIDE THAT THIS ACT SHALL NOT INVALIDATE THE CHILD PROTECTIVE ACT, TO AUTHORIZE A CLAIM, DEFENSE AND APPROPRIATE RELIEF AND TO PROVIDE FOR ATTORNEY'S FEES; AND PROVIDING SEVERABILITY.

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

SECTION 1. That Chapter 10, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-1010, Idaho Code, and to read as follows:

32-1010. INTENT OF THE LEGISLATURE -- PARENTAL RIGHTS. (1) The interests and role of parents in the care, custody and control of their children are both implicit in the concept of ordered liberty and deeply rooted in our nation's history and tradition. They are also among the unalienable rights retained by the people under the ninth amendment to the constitution of the United States.

(2) The interests of the parents includes the high duty and right to nurture and direct their children's destiny, including their upbringing and education.

(3) The state of Idaho has independent authority to protect its parents' fundamental right to nurture and direct their children's destiny, upbringing and education.

(4) The protections and rights recognized in sections 32-1011 through 32-1013, Idaho Code, are rooted in the due process of law guaranteed pursuant to section 13, article I, of the constitution of the state of Idaho.

(5) Governmental efforts that restrict or interfere with these fundamental rights are only permitted if that restriction or interference satisfies the strict scrutiny standard provided in section 32-1013, Idaho Code.

(6) Nothing in this act shall be construed as altering the established presumption in favor of the constitutionality of statutes and regulations.

SECTION 2. That Chapter 10, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-1011, Idaho Code, and to read as follows:

32-1011. PARENTAL RIGHT TO THE CARE, CUSTODY AND CONTROL OF CHILDREN. Parents who have legal custody of any minor child or children have the fundamental right to make decisions concerning their care, custody and control.

SECTION 3. That Chapter 10, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-1012, Idaho Code, and to read as follows:

32-1012. PARENTAL RIGHT TO DIRECT THE EDUCATION OF CHILDREN. Parents who have legal custody of any minor child or children have the fundamental right and duty to make decisions concerning their education, including the right to cause the child to be educated in any manner authorized under section 33-202, Idaho Code, and section 9, article IX, of the constitution of the state of Idaho.

SECTION 4. That Chapter 10, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-1013, Idaho Code, and to read as follows:

32-1013. INTERFERENCE WITH FUNDAMENTAL PARENTAL RIGHTS RESTRICTED. (1) Neither the state of Idaho, nor any political subdivision thereof, may violate a parent's fundamental and established rights protected by this act, and any restriction of or interference with such

rights shall not be upheld unless it demonstrates by clear and convincing evidence that the restriction or interference is both:

- (a) Essential to further a compelling governmental interest; and
- (b) The least restrictive means available for the furthering of that compelling governmental interest.

(2) The foregoing principles apply to any interference whether now existing or hereafter enacted.

(3) Nothing in this act shall be construed as invalidating the provisions of the child protective act in chapter 16, title 16, Idaho Code, or modify the burden of proof at any stage of proceedings under the child protective act.

(4) When a parent's fundamental rights protected by this act are violated, a parent may assert that violation as a claim or defense in a judicial proceeding and may obtain appropriate relief against the governmental entity.

(5) If a parent prevails in a civil action against the state, or a political subdivision thereof, as provided in subsection (4) of this section, the parent is entitled to reasonable attorney's fees and costs.

SECTION 5. 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 April 2, 2015

CHAPTER 220  
(H.B. No. 184)

AN ACT

RELATING TO BEER; AMENDING SECTION 23-1001, IDAHO CODE, TO REVISE A DEFINITION; AND AMENDING SECTION 23-1003, IDAHO CODE, TO CLARIFY PROVISIONS RELATING TO SMALL BREWER SELF-DISTRIBUTION AND TO PROVIDE CORRECT TERMINOLOGY.

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

SECTION 1. That Section 23-1001, Idaho Code, be, and the same is hereby amended to read as follows:

23-1001. DEFINITIONS. As used in this chapter:

- (a) The word "beer" means any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley, malt and/or other ingredients in drinkable water.
- (b) The word "brewer" means a person licensed to manufacture beer.
- (c) "Certificate of approval" means a license issued to a person whose business is located outside of the state of Idaho, who sells beer to wholesalers ~~or brewers~~ located within the state of Idaho.
- (d) The term "dealer" means a person licensed to import beer into this state for sale to a wholesaler.
- (e) The word "director" means the director of the Idaho state police.
- (f) The words "live performance" mean a performance occurring in a theater and not otherwise in violation of any provision of Idaho law.
- (g) The word "person" includes any individual, firm, copartnership, association, corporation or any group or combination acting as a unit, and

the plural as well as the singular number unless the intent to give a more limited meaning is disclosed by the context.

(h) The word "premises" means the building and contiguous property owned, or leased or used under government permit by a licensee as part of the business establishment in the business of sale of beer at retail, which property is improved to include decks, docks, boardwalks, lawns, gardens, golf courses, ski resorts, courtyards, patios, poolside areas or similar improved appurtenances in which the sale of beer at retail is authorized under the provisions of law.

(i) The word "retailer" means a person licensed to sell beer to consumers at premises described in the license.

(j) The word "theater" means a room, place or outside structure for performances or readings of dramatic literature, plays or dramatic representations of an art form not in violation of any provision of Idaho law.

(k) The word "wholesaler" means any person licensed to sell beer to retailers, wholesalers, permittees or consumers and distribute beer from warehouse premises described in the license.

(l) All other words and phrases used in this chapter, the definitions of which are not herein given, shall be given their ordinary and commonly understood and acceptable meanings.

SECTION 2. That Section 23-1003, Idaho Code, be, and the same is hereby amended to read as follows:

23-1003. BREWERS', DEALERS' AND WHOLESALERS' LICENSES. (a) Before any brewer shall manufacture or any dealer or wholesaler import or sell beer within the state of Idaho, he such brewer shall apply to the director for a license. The application form shall be prescribed and furnished by the director and require that the applicant show that he such brewer possesses all the qualifications and none of the disqualifications of a licensee. To determine qualification for a license, the director shall cause an investigation that shall include a fingerprint-based criminal history check of the Idaho central criminal history database and the federal bureau of investigation criminal history database. Each person listed as an applicant on an initial application shall submit a full set of fingerprints and the fee to cover the cost of the criminal history background check with the application. The application shall also be accompanied by the required licensee fee; provided, that where the applicant is or will be within more than one (1) of the foregoing classifications, he the applicant shall apply for each classification but shall pay only one (1) license fee, which shall be for the classification requiring the highest fee. If the director is satisfied that the applicant possesses the qualifications and none of the disqualifications for the license, he the director shall issue a license for each classification applied for, subject to the restrictions and upon the conditions in this act specified, which license or licenses shall be at all times prominently displayed in the place of business of the licensee.

(b) Each wholesaler shall, in addition to the application, file with the director a notice in writing signed by the dealer or brewer and the wholesaler stating the geographic territory within which the wholesaler will distribute beer to retailers. The territory will be agreed upon between the dealer or brewer and the wholesaler and may not be changed or modified without the consent of both the dealer or brewer and the wholesaler. Provided however, nothing in this section shall be interpreted to prohibit a brewer or dealer from permitting more than one (1) distributor for the same geographic territory.

(c) In the event that a wholesaler sells beer to a retailer who is located outside the geographical territory designated by that wholesaler on the notice provided for in subsection (b) of this section, the dealer or wholesaler who has designated the geographical territory in which the

sale occurred may apply to a district court of this state for the issuance of an injunction enjoining sales of beer by the wholesaler outside of his its designated geographical territory. The procedure for issuance of an injunction pursuant to this act shall be subject to the Idaho rules of civil procedure. Upon proof to the court that a wholesaler has made a sale of beer outside his of its designated geographical territory, the court shall issue an injunction directed to the wholesaler prohibiting sales of beer outside his of its designated geographical territory.

(d) Any brewer licensed within the state of Idaho who produces fewer than thirty thousand (30,000) barrels of beer annually, upon payment of a retailer's annual license fee, may be issued a brewer's retail beer license for the retail sale of the products of his its brewery at his its licensed premises or one (1) remote retail location, or both. Any brewer selling beer at retail or selling to a retailer must pay the taxes required in section 23-1008, Idaho Code, but need not be licensed as a wholesaler for the purpose of selling beer at the brewery or at one (1) remote retail location.

(e) Any brewer licensed within the state of Idaho who produces fewer than thirty thousand (30,000) barrels of beer annually may be issued a brewer's pub license. Upon payment of a retailer's annual license fee, and subject to the fees in sections 23-1015 and 23-1016, Idaho Code, a brewer may, at his its licensed brewery or at one (1) remote retail location, or both, sell at retail the products of any brewery by the individual bottle, can or glass. Any brewer selling beer at retail or selling products of its brewery to a retailer must pay the taxes required in section 23-1008, Idaho Code, on the products of his its brewery, but need not be licensed as a wholesaler for the purpose of selling beer at the brewery or at one (1) remote retail location.

(f) A brewer licensed under the provisions of subsection (d) or (e) of this section may be licensed as a wholesaler for the sale of beer produced by such brewery to retailers other than at the licensed brewery and one (1) remote retail location and shall not be required to pay an additional fee. Such brewer shall, however, comply with and be subject to all other regulations or provisions of law that apply to a wholesaler's license, except as the laws may restrict sales at the licensed brewery or one (1) other remote retail location. The holder of a brew pub license shall not be disqualified from holding a retail wine license or wine by the drink license for the sale of wine at the brew pub premises on the grounds that the licensee is also licensed as a wholesaler.

Approved April 2, 2015

CHAPTER 221  
(H.B. No. 185)

AN ACT

RELATING TO ELECTRICAL CORPORATIONS; AMENDING SECTION 61-119, IDAHO CODE, TO REVISE AN EXCEPTION TO A DEFINED TERM, TO PROVIDE FOR AN EXCEPTION TO A DEFINED TERM WHERE ELECTRICITY IS PURCHASED TO CHARGE BATTERIES OF ELECTRIC MOTOR VEHICLES AS PROVIDED BY ORDER OR RULE OF THE COMMISSION.

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

SECTION 1. That Section 61-119, Idaho Code, be, and the same is hereby amended to read as follows:

61-119. ELECTRICAL CORPORATION. The term "electrical corporation" when used in this act includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning,

controlling, operating or managing any electric plant for compensation within this state, except where the electricity is:

(1) ~~Generated on or distributed by the producer through private property alone, solely for his own use or the use of his tenants and not for sale to others, and excepting also, where the electricity is;~~

(2) Purchased from a public utility as defined in section 61-129, Idaho Code, to charge the batteries of an electric motor vehicle as provided by order or rule of the commission; or

(3) ~~To be used exclusively in operations incident to the working of metalliferous mines and mining claims, mills, or reduction and smelting plants, and the transmission lines and distribution systems are owned by the consumer or where several consumers severally own their individual distribution systems and jointly own, in their own names or through a trustee, the transmission lines used in connection therewith and transmit such electricity, whether generated by themselves or procured from some other source, over such transmission lines and distribution systems without profit, and to be used for their private uses for the purposes aforesaid in places outside the limits of incorporated cities, towns and villages, and not for resale or public use, sale or distribution.~~

Approved April 2, 2015

CHAPTER 222  
(H.B. No. 195)

AN ACT

RELATING TO FIREWORKS; AMENDING SECTION 39-2609, IDAHO CODE, TO PROVIDE PENALTIES FOR A FIREWORKS VIOLATION; AND AMENDING SECTION 39-2613, IDAHO CODE, TO PROVIDE A CODE REFERENCE.

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

SECTION 1. That Section 39-2609, Idaho Code, be, and the same is hereby amended to read as follows:

39-2609. GENERAL PROHIBITIONS. It shall be unlawful for any person, except in compliance with this chapter, to:

- (1) Alter any fireworks;
- (2) Throw any fireworks from, into, or at a moving vehicle or at any person;
- (3) Sell or use any fireworks at any time not permitted under this chapter;
- (4) Use fireworks in any area that constitutes a severe fire threat based on the vegetative conditions during the current fire season as determined by the county commission or authority having jurisdiction, provided that notice of such areas is given in advance.

A violation of subsection (1) or (3) of this section shall constitute an infraction and shall be punishable by a fine of one hundred dollars (\$100).

SECTION 2. That Section 39-2613, Idaho Code, be, and the same is hereby amended to read as follows:

39-2613. PENALTIES -- INJUNCTIONS. Except as provided in section 39-2609, Idaho Code, aAny person violating the provisions of this chapter or any rules issued hereunder is guilty of a misdemeanor. Notwithstanding the existence or use of any other penalty or remedy, any person who violates the provisions of this chapter or any of the rules promulgated pursuant to this chapter may, upon application to or with written consent of the

authority having jurisdiction, be enjoined in the manner provided by law from continuing the violation. Fireworks being used in violation of this chapter may be confiscated by the authority having jurisdiction.

Approved April 2, 2015

CHAPTER 223  
(H.B. No. 197)

AN ACT

RELATING TO ENVIRONMENTAL QUALITY; AMENDING SECTION 39-102, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO GROUND WATER AND MINE OPERATORS; AND DECLARING AN EMERGENCY AND PROVIDING FOR RULEMAKING.

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

SECTION 1. That Section 39-102, Idaho Code, be, and the same is hereby amended to read as follows:

39-102. STATE POLICY ON ENVIRONMENTAL PROTECTION. (1-) It is hereby recognized by the legislature that the protection of the environment and the promotion of personal health are vital concerns and are therefore of great importance to the future welfare of this state. It is therefore declared to be the policy of the state to provide for the protection of the environment and the promotion of personal health and to thereby protect and promote the health, safety and general welfare of the people of this state.

(2-) The goal of the legislature in enacting the ground water quality protection act of 1989 shall be to maintain the existing high quality of the state's ground water and to satisfy existing and projected future beneficial uses including drinking water, agricultural, industrial and aquacultural water supplies. All ground water shall be protected as a valuable public resource against unreasonable contamination or deterioration. The quality of degraded ground water shall be restored where feasible and appropriate to support identified beneficial uses.

(3-) In enacting this law, the legislature intends to prevent contamination of ground water from point and nonpoint sources of contamination to the maximum extent practical. In attaining the goals enumerated in subsections (1) and (2) of this section, the legislature wishes to enumerate the following ground water quality protection goals:

(a-) It is the policy of the state to prevent contamination of ground water from any source to the maximum extent practical.

(b-) The discovery of any contamination that poses a threat to existing or projected future beneficial uses of ground water shall require appropriate actions to prevent further contamination. These actions may consist of investigation and evaluation or enforcement actions if necessary to stop further contamination or clean up existing contamination as required under the environmental protection and health act.

(c-) All persons in the state should conduct their activities so as to prevent the nonregulated release of contaminants into ground water.

(d-) Education of the citizens of the state is necessary to preserve and restore ground water quality.

(4) It is the policy of the state to protect ground water and to allow for the extraction of minerals above and within ground water. A mine operator shall protect current and projected future beneficial uses of ground water at a point of compliance designated pursuant to rules of the department. Degradation of ground water is allowed at a point of compliance if the mine operator implements the level of protection during mining activities appropriate for the aquifer category.

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 Board of Environmental Quality shall promulgate temporary rules by June 1, 2015, to implement the provisions of this act.

Approved April 2, 2015

CHAPTER 224  
(H.B. No. 208)

AN ACT

RELATING TO PROPERTY TAX RELIEF; AMENDING SECTION 63-701, IDAHO CODE, TO FURTHER DEFINE THE TERM "CLAIMANT" 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 63-701, Idaho Code, be, and the same is hereby amended to read as follows:

63-701. DEFINITIONS. As used in this chapter:

(1) "Claimant" means a person who has filed an application under section 63-602G, Idaho Code, and has filed a claim under the provisions of sections 63-701 through 63-710, Idaho Code. Except as provided in section 63-702(2), Idaho Code, on January 1, or before April 15, of the year in which the claimant first filed a claim on the homestead in question, a claimant must be an owner of the homestead and on January 1 of said year a claimant must be:

(a) Not less than sixty-five (65) years old; or

(b) A child under the age of eighteen (18) years who is fatherless or motherless or who has been abandoned by any surviving parent or parents; or

(c) A widow or widower; or

(d) A disabled person who is recognized as disabled by the social security administration pursuant to title 42 of the United States Code, or by the railroad retirement board pursuant to title 45 of the United States Code, or by the office of management and budget pursuant to title 5 of the United States Code, or, if a person is not within the purview of, and is therefore not recognized as disabled by, any other entity listed in this paragraph, then by the public employee retirement system or public employee disability plan in which the person participates that may be of any state, local unit of government or other jurisdiction in the United States of America; or

(e) A disabled veteran of any war engaged in by the United States, whose disability is recognized as a service-connected disability of a degree of ten percent (10%) or more, or who has a pension for nonservice-connected disabilities, in accordance with laws and regulations administered by the United States department of veterans affairs; or

(f) A person, as specified in 42 U.S.C. 1701, who was or is entitled to receive benefits because he is known to have been taken by a hostile force as a prisoner, hostage or otherwise; or

(g) Blind.

(2) "Homestead" means the dwelling, owner-occupied by the claimant as described in this chapter and used as the primary dwelling place of the claimant and may be occupied by any members of the household as their home, and so much of the land surrounding it, not exceeding one (1) acre, as is reasonably necessary for the use of the dwelling as a home. It may consist

of a part of a multidwelling or multipurpose building and part of the land upon which it is built. "Homestead" does not include personal property such as furniture, furnishings or appliances, but a manufactured home may be a homestead.

(3) "Household" means the claimant and the claimant's spouse. The term does not include bona fide lessees, tenants, or roomers and boarders on contract. "Household" includes persons described in subsection (8) (b) of this section.

(4) "Household income" means all income received by the claimant and, if married, all income received by the claimant's spouse, in a calendar year.

(5) "Income" means the sum of federal adjusted gross income as defined in the Internal Revenue Code, as defined in section 63-3004, Idaho Code, and to the extent not already included in federal adjusted gross income:

(a) Alimony;

(b) Support money;

(c) Nontaxable strike benefits;

(d) The nontaxable amount of any individual retirement account, pension or annuity, (including railroad retirement benefits, all payments received under the federal social security act except the social security death benefit as specified in this subsection, state unemployment insurance laws, and veterans disability pensions and compensation, excluding any return of principal paid by the recipient of an annuity and excluding rollovers as provided in section 402 or 403 of the Internal Revenue Code);

(e) Nontaxable interest received from the federal government or any of its instrumentalities or a state government or any of its instrumentalities;

(f) Worker's compensation; and

(g) The gross amount of loss of earnings insurance.

It does not include gifts from nongovernmental sources or inheritances. To the extent not reimbursed, the cost of medical care as defined in section 213(d) of the Internal Revenue Code, incurred or paid by the claimant and, if married, the claimant's spouse, may be deducted from income. To the extent not reimbursed, personal funeral expenses, including prepaid funeral expenses and premiums on funeral insurance, of the claimant and claimant's spouse only, may be deducted from income up to an annual maximum of five thousand dollars (\$5,000) per claim. "Income" does not include veterans disability pensions received by a person described in subsection (1) (e) of this section who is a claimant or a claimant's spouse if the disability pension is received pursuant to a service-connected disability of a degree of forty percent (40%) or more. "Income" does not include dependency and indemnity compensation or death benefits paid to a person described in subsection (1) of this section by the United States department of veterans affairs and arising from a service-connected death or disability. "Income" does not include lump sum death benefits made by the social security administration pursuant to 42 U.S.C. section 402(i). Documentation of medical expenses may be required by the county assessor and state tax commission in such form as the county assessor or state tax commission shall determine. "Income" shall be that received in the calendar year immediately preceding the year in which a claim is filed. Where a claimant and/or the claimant's spouse does not file a federal tax return, the claimant's and/or the claimant's spouse's federal adjusted gross income, for purposes of this section, shall be an income equivalent to federal adjusted gross income had the claimant and/or the claimant's spouse filed a federal tax return, as determined by the county assessor. The county assessor or state tax commission may require documentation of income in such form as each shall determine, including, but not limited to: copies of federal or state tax returns and any attachments thereto; and income reporting forms such as the W-2 and 1099.



For determining income for certain married individuals living apart, the provisions of sections 2(c) and 7703(b) of the Internal Revenue Code shall apply.

(6) "Occupied" means actual use and possession.

(7) "Owner" means a person holding title in fee simple or holding a certificate of motor vehicle title (either of which may be subject to mortgage, deed of trust or other lien) or who has retained or been granted a life estate or who is a person entitled to file a claim under section 63-702, Idaho Code. "Owner" shall also include any person who:

(a) Is the beneficiary of a revocable or irrevocable trust which is the owner of such homestead and under which the claimant or the claimant's spouse has the primary right of occupancy of the homestead; or

(b) Is a partner of a limited partnership, member of a limited liability company or shareholder of a corporation if such entity holds title in fee simple or holds a certificate of motor vehicle title and if the person holds at least a five percent (5%) ownership in such entity, as determined by the county assessor; or

(c) Has retained or been granted a life estate.

"Owner" includes a vendee in possession under a land sale contract. Any partial ownership shall be considered as ownership for determining initial qualification for property tax reduction benefits; however, the amount of property tax reduction under section 63-704, Idaho Code, and rules promulgated pursuant to section 63-705, Idaho Code, shall be computed on the value of the claimant's partial ownership. "Partial ownership," for the purposes of this section, means any one (1) person's ownership when property is owned by more than one (1) person or where the homestead is held by an entity, as set forth in this subsection, but more than one (1) person has the right of occupancy of such homestead. A person holding either partial title in fee simple or holding a certificate of motor vehicle title together with another person but who does not occupy the dwelling as his primary dwelling place, shall not be considered an owner for purposes of this section, if such person is a cosignatory of a note secured by the dwelling in question and at least one (1) of the other cosignatories of the note occupies the dwelling as his primary dwelling place. The combined community property interests of both spouses shall not be considered partial ownership so long as the combined community property interests constitute the entire ownership of the homestead, including where the spouses are occupying a homestead owned by an entity, as set forth in this subsection, and the spouses have the primary right of occupancy of the homestead. The proportional reduction required under this subsection shall not apply to community property interests. Where title to property was held by a person who has died without timely filing a claim for property tax reduction, the estate of the deceased person shall be the "owner," provided that the time periods during which the deceased person held such title shall be attributed to the estate for the computation of any time periods under subsection (8) (a) or (8) (b) of this section.

(8) (a) "Primary dwelling place" means the claimant's dwelling place on January 1 or before April 15 of the year for which the claim is made. The primary dwelling place is the single place where a claimant has his true, fixed and permanent home and principal establishment, and to which whenever the individual is absent he has the intention of returning. A claimant must establish the dwelling to which the claim relates to be his primary dwelling place by clear and convincing evidence or by establishing that the dwelling is where the claimant resided on January 1 or before April 15 and:

(i) At least six (6) months during the prior year; or

(ii) The majority of the time the claimant owned the dwelling if owned by the claimant less than one (1) year; or

(iii) The majority of the time after the claimant first occupied the dwelling if occupied by the claimant for less than one (1)

year. The county assessor may require written or other proof of the foregoing in such form as the county assessor may determine.

(b) Notwithstanding the provisions of paragraph (a) of this subsection, the property upon which the claimant makes application shall be deemed to be the claimant's primary dwelling place if the claimant is otherwise qualified and resides in a care facility and does not allow the property upon which the claimant has made application to be occupied by persons paying a consideration to occupy the dwelling. Payment of utilities shall not be payment of a consideration to occupy the dwelling. A claimant's spouse who resides in a care facility shall be deemed to reside at the claimant's primary dwelling place and to be a part of the claimant's household. A care facility is a hospital, nursing facility or intermediate care facility for people with intellectual disabilities as defined in section 39-1301, Idaho Code, or a facility as defined in section 39-3302(14), Idaho Code, or a dwelling other than the one upon which the applicant makes application where a claimant who is unable to reside in the dwelling upon which the application is made lives and receives help in daily living, protection and security.

SECTION 2. This act shall be in full force and effect on and after January 1, 2016.

Approved April 2, 2015

CHAPTER 225  
(H.B. No. 221)

AN ACT

RELATING TO SALES TAXATION; AMENDING SECTION 63-3622D, IDAHO CODE, TO PROVIDE THAT THE COSTS OF ACQUIRING, FEEDING, CARING FOR AND MAINTAINING WILDLIFE OR FISH THAT ARE MADE AVAILABLE FOR HUNTING OR FISHING ARE ELIGIBLE FOR THE PRODUCTION EXEMPTION WHEN THE HUNTING OR FISHING ACTIVITY IS TAXABLE 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 63-3622D, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622D. PRODUCTION EXEMPTION. There are exempted from the taxes imposed by this chapter:

(a) The sale at retail, storage, use or other consumption in this state of:

(1) Tangible personal property which will enter into and become an ingredient or component part of tangible personal property manufactured, processed, mined, produced or fabricated for sale, including birds, fish or other wildlife that are hunted or fished on property a business owns, controls or has the right to use and where the business collects sales tax for the charges imposed for the hunting or fishing activity, and including the cost of acquiring such birds, fish or other wildlife and the feed, supplies and labor used to raise or maintain such birds, fish or other wildlife.

(2) Tangible personal property primarily and directly used or consumed in or during a manufacturing, processing, mining, farming, or fabricating, hunting or fishing operation, including, but not limited to, repair parts, lubricants, hydraulic oil, and coolants, which become a

component part of such tangible personal property and including, but not limited to, ammunition, birds, fish or other wildlife; provided that the use or consumption of such tangible personal property is necessary or essential to the performance of such operation.

(3) Chemicals, catalysts, and other materials which are used for the purpose of producing or inducing a chemical or physical change in the product or for removing impurities from the product or otherwise placing the product in a more marketable condition as part of an operation described in subsection (a)(2) of this section, and chemicals and equipment used in clean-in-place systems in the food processing and food manufacturing industries.

(4) Safety equipment and supplies required to meet a safety standard of a state or federal agency when such safety equipment and supplies are used as part of an operation described in subsection (a)(2) of this section.

(5) Plants to be used as part of a farming operation.

(b) Other than as provided in subsection (c) of this section, the exemptions allowed in subsections (a)(1), ~~(a)(2)~~, ~~(a)(3)~~ and ~~(a)(4)~~ of this section are available only to a business or separately operated segment of a business which is primarily devoted to producing tangible personal property which that business will sell and which is intended for ultimate sale at retail within or without this state. A contractor providing services to a business entitled to an exemption under this section is not exempt as to any property owned, leased, rented or used by it unless, as a result of the terms of the contract, the use of the property is exempt under section 63-3615(b), Idaho Code.

(c) The exemptions allowed in subsections (a)(1), ~~(a)(2)~~, ~~(a)(3)~~ and ~~(a)(4)~~ of this section shall also be available to a business, or separately operated segment of a business, engaged in farming or mining, whether as a subcontractor, contractor, contractee or subcontractee, when such business or segment of a business is primarily devoted to producing tangible personal property which is intended for ultimate sale at retail within or without this state, without regard to the ownership of the product being produced; and shall also be available to a business, or separately operated segment of a business, engaged in offering the right to hunt birds or other wildlife or fish on property the business owns, controls or has the right to use, where the charges for such rights are subject to sales tax as provided in this chapter.

(d) The exemptions allowed in subsections (a)(1), ~~(a)(2)~~, ~~(a)(3)~~ and ~~(a)(4)~~ of this section shall also be available to a business, or separately operated segment of a business, engaged in the business of processing materials, substances or commodities for use as fuel for the production of energy, whether as a subcontractor, contractor, contractee or subcontractee, without regard to the ownership of the materials, substances or commodities being processed and irrespective of whether the materials, substances or commodities being processed are intended for ultimate sale at retail within or without this state.

(e) As used in this section, the term "directly used or consumed in or during" a farming operation means the performance of a function reasonably necessary to the operation of the total farming business, including, the planting, growing, harvesting and initial storage of crops and other agricultural products and movement of crops and produce from the place of harvest to the place of initial storage. It includes disinfectants used in the dairy industry to clean cow udders or to clean pipes, vats or other milking equipment.

(f) The exemptions allowed in this section do not include machinery, equipment, materials and supplies used in a manner that is incidental to the manufacturing, processing, mining, farming or fabricating operations such as maintenance and janitorial equipment and supplies.

(g) Without regard to the use of such property, this section does not exempt:

(1) Hand tools with a unit purchase price not in excess of one hundred dollars (\$100). A hand tool is an instrument used or worked by hand.

(2) Tangible personal property used in any activities other than the actual manufacturing, processing, mining, farming, or fabricating, hunting or fishing operations, such as office equipment and supplies, and equipment and supplies used in selling or distributing activities.

(3) Property used in transportation activities.

(4) Machinery, equipment, tools or other property used to make repairs. This subsection does not include repair parts that become a component part of tangible property exempt from tax under this section or lubricants, hydraulic oil, or coolants used in the operation of tangible personal property exempt under this section.

(5) Machinery, equipment, tools or other property used to manufacture, fabricate, assemble or install tangible personal property which is:

(i) Not held for resale in the regular course of business; and

(ii) Owned by the manufacturer, processor, miner, farmer or fabricator;

provided, however, this subsection does not prevent exemption of machinery, equipment, tools or other property exempted from tax under subsection (a) (2) or (a) (3) of this section.

(6) Any improvement to real property or fixture thereto or any tangible personal property which becomes or is intended to become a component of any real property or any improvement or fixture thereto.

(7) Motor vehicles and aircraft.

(8) Tangible personal property used or consumed in processing, producing or fabricating tangible personal property exempted from tax under this chapter in sections 63-3622F and 63-3622I, Idaho Code.

(9) Tangible personal property described in section 63-3622HH, Idaho Code.

(h) Any tangible personal property exempt under this section which ceases to qualify for this exemption, and does not qualify for any other exemption or exclusion of the taxes imposed by this chapter, shall be subject to use tax based upon its value at the time it ceases to qualify for exemption. Any tangible personal property taxed under this chapter which later qualifies for this exemption shall not entitle the owner of it to any claim for refund.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and shall be applied retroactively to any case under audit or in which a timely protest has been filed as of the date of this act's passage and approval.

Approved April 2, 2015

CHAPTER 226  
(H.B. No. 237)

AN ACT

RELATING TO THE USE TAX; AMENDING SECTION 63-3621, IDAHO CODE, TO PROVIDE THAT THE USE TAX SHALL NOT APPLY TO A RETAILER SUPPLYING PREPARED FOOD OR BEVERAGES FREE OF CHARGE TO ITS EMPLOYEE WHEN THAT RETAILER SELLS PREPARED FOOD OR BEVERAGES IN ITS NORMAL COURSE OF BUSINESS; 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.

(1) The use tax herein imposed shall not apply to the use of household goods, personal effects and personally owned vehicles or personally owned aircraft by a resident of this state if such articles were acquired by such person in another state while a resident of that state and primarily for use outside this state and if such use was actual and substantial, but if an article was acquired less than three (3) months prior to the time he entered this state, it will be presumed that the article was acquired for use in this state and that its use outside this state was not actual and substantial. The use tax herein imposed shall not apply to the use of household goods, personal effects and personally owned vehicles or personally owned aircraft by active duty military personnel temporarily assigned in this state and spouses who accompany them if such articles were acquired prior to receipt of orders to transfer to Idaho or three (3) months prior to moving to Idaho, whichever time period is shorter. For purposes of this subsection, "resident" shall be as defined in section 63-3013 or 63-3013A, Idaho Code.

(m) The use tax herein imposed shall not apply to the storage, use or other consumption of tangible personal property which is or will be incorporated into real property and which has been donated to and has become the property of:

- (1) A nonprofit organization as defined in section 63-36220, Idaho Code; or
- (2) The state of Idaho; or
- (3) Any political subdivision of the state.

This exemption applies whether the tangible personal property is incorporated in real property by the donee, a contractor or subcontractor of the donee, or any other person.

(n) The use tax herein imposed shall not apply to tastings of food and beverages including, but not limited to, wine and beer. For the purposes of this subsection, a tasting of wine and beer shall be defined as the maximum serving allowed by state or federal laws for such occasions provided to a potential customer, at no charge, at a location where like or similar beverages are sold. For nonalcoholic beverages and food, a tasting shall be defined as a sample from a unit available for sale at the tasting location.

(o) The use tax herein imposed shall not apply to donations of food or beverages, or both, to individuals or nonprofit organizations. For the purposes of this section, "nonprofit organization" means those nonprofit entities currently registered with the secretary of state pursuant to section 30-3-2, Idaho Code.

(p) The use tax herein imposed shall not apply to a retailer supplying prepared food or beverages free of charge to its employee when that retailer sells prepared food or beverages in its normal course of business.

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

Approved April 2, 2015

CHAPTER 227  
(H.B. No. 272)

AN ACT

APPROPRIATING MONEYS TO THE STATE TREASURER FOR FISCAL YEAR 2016; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; PROVIDING LEGISLATIVE INTENT REGARDING CONFERENCE-RELATED ACTIVITIES; PROVIDING LEGISLATIVE INTENT REGARDING PAYMENT OF BANK SERVICE FEES; PROVIDING LEGISLATIVE INTENT REGARDING MITIGATION OF BANK SERVICE FEES; AND PROVIDING LEGISLATIVE INTENT REGARDING CONSULTATION WITH THE STATE TREASURER INVESTMENT ADVISORY BOARD.

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, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General			
Fund	\$896,400	\$518,900	\$1,415,300
State Treasurer LGIP			
Fund	400,600	113,800	514,400
Treasurer's Office - Professional Services			
Fund	400,700	533,700	934,400
Idaho Millennium Income			
Fund		80,000	80,000
Abandoned Property Trust - Unclaimed Property			
Fund	<u>601,900</u>	<u>282,700</u>	<u>884,600</u>
TOTAL	\$2,299,600	\$1,529,100	\$3,828,700

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, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. STATE TREASURER LGIP FUND REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the State Treasurer any unexpended and unencumbered balances of moneys in the State Treasurer Local Government Investment Pool Fund as appropriated for fiscal year 2015, to be used for nonrecurring expenditures, for the period July 1, 2015, through June 30, 2016.

SECTION 4. CONFERENCE-RELATED ACTIVITIES. It is the intent of the Legislature that no more than \$10,000 from the General Fund, as appropriated in Section 1 of this act, shall be spent on various conference-related activities including, but not limited to, sponsorships, in-kind donations, and information booths. No moneys appropriated in Section 1 of this act from dedicated funds shall be used for conference-related activities unless otherwise provided by Idaho Code; provided, however, that in no event shall more



than a total of \$10,000 from any fund source or combination thereof be used for said conference-related activities.

SECTION 5. PAYMENT OF BANK SERVICE FEES. Of the amount appropriated in Section 1 of this act, \$435,900 from the General Fund and \$192,400 from the Professional Services Fund 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, 2015, through June 30, 2016.

SECTION 6. MITIGATION OF BANK SERVICE FEES. On July 1, 2015, or as soon thereafter as is practicable, the State Treasurer shall make all efforts reasonably necessary to reduce or eliminate bank service fees associated with the State Treasurer's bank accounts including, but not limited to, entering into competitive bidding for bank services. Said fees include, but are not limited to, those associated with processing warrants, merchant services, account maintenance, balance and compensation services, general account services, depository services, paper disbursement services, automated clearinghouse services, electronic data interchange payment services, wire and transfer services, file transmission, client analysis, image retrieval, account reconciliation, and other miscellaneous services.

SECTION 7. STATE TREASURER INVESTMENT ADVISORY BOARD. It is the intent of the Legislature that the State Treasurer, as chairman of the State Treasurer Investment Advisory Board (hereinafter, "the investment board"), shall consult with the investment board regarding the advisability, merits, necessity, scope, and funding of any private, third-party, or outside audit of, or preparation of financial statements related to, the investment of idle funds and other funds accepted for investment by the State Treasurer. On or before January 22, 2016, the investment board shall report to the Legislature regarding the outcomes and recommendations of said consultation and the frequency of meetings held pursuant to Section 67-1203A(2), Idaho Code.

Approved April 2, 2015

CHAPTER 228  
(H.B. No. 276)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISIONS OF CHILD WELFARE, SERVICES FOR THE DEVELOPMENTALLY DISABLED AND SERVICE INTEGRATION FOR FISCAL YEAR 2016; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING FOR GENERAL FUND TRANSFERS TO THE COOPERATIVE WELFARE FUND; DIRECTING EXPENDITURES FOR TRUSTEE AND BENEFIT PAYMENTS; PROVIDING LEGISLATIVE INTENT FOR PROGRAM INTEGRITY; CLARIFYING RESPONSIBILITY FOR EDUCATION OF CERTAIN CHILDREN IN STATE CARE; AND DIRECTING EXPENDITURES FOR HEAD START APPROPRIATIONS FROM TEMPORARY ASSISTANCE FOR NEEDY FAMILIES.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare, the following amounts to be expended according to the designated divisions, programs and expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>I. CHILD WELFARE:</b>				
<b>A. CHILD WELFARE:</b>				
FROM:				
Cooperative Welfare (General)				
Fund	\$7,574,700	\$2,072,500		\$9,647,200
Cooperative Welfare (Dedicated)				
Fund	71,500	20,000		91,500
Cooperative Welfare (Federal)				
Fund	<u>18,961,500</u>	<u>5,779,000</u>		<u>24,740,500</u>
TOTAL	\$26,607,700	\$7,871,500		\$34,479,200
<b>B. FOSTER AND ASSISTANCE PAYMENTS:</b>				
FROM:				
Cooperative Welfare (General)				
Fund			\$10,506,200	\$10,506,200
Cooperative Welfare (Dedicated)				
Fund			955,400	955,400
Cooperative Welfare (Federal)				
Fund			<u>17,590,900</u>	<u>17,590,900</u>
TOTAL			\$29,052,500	\$29,052,500
DIVISION TOTAL	\$26,607,700	\$7,871,500	\$29,052,500	\$63,531,700
<b>II. SERVICES FOR THE DEVELOPMENTALLY DISABLED:</b>				
<b>A. COMMUNITY DEVELOPMENTAL DISABILITY SERVICES:</b>				
FROM:				
Cooperative Welfare (General)				
Fund	\$6,622,200	\$1,107,700	\$2,311,000	\$10,040,900
Cooperative Welfare (Dedicated)				
Fund	96,100	46,300	1,909,800	2,052,200
Cooperative Welfare (Federal)				
Fund	<u>5,299,400</u>	<u>1,044,400</u>	<u>945,900</u>	<u>7,289,700</u>
TOTAL	\$12,017,700	\$2,198,400	\$5,166,700	\$19,382,800
<b>B. SOUTHWEST IDAHO TREATMENT CENTER:</b>				
FROM:				
Cooperative Welfare (General)				
Fund	\$2,026,400	\$318,600	\$77,500	\$2,422,500
Cooperative Welfare (Dedicated)				
Fund	270,000	137,800	10,600	418,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Cooperative Welfare (Federal)				
Fund	<u>6,035,800</u>	<u>1,913,900</u>	<u>143,000</u>	<u>8,092,700</u>
TOTAL	\$8,332,200	\$2,370,300	\$231,100	\$10,933,600
DIVISION TOTAL	\$20,349,900	\$4,568,700	\$5,397,800	\$30,316,400

III. SERVICE INTEGRATION:

FROM:

Cooperative Welfare (General)

Fund	\$214,000	\$54,700	\$450,000	\$718,700
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Cooperative Welfare (Dedicated)

Fund		19,500	50,000	69,500
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Cooperative Welfare (Federal)

Fund	<u>1,934,600</u>	<u>263,600</u>	<u>2,900,000</u>	<u>5,098,200</u>
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TOTAL	\$2,148,600	\$337,800	\$3,400,000	\$5,886,400
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GRAND TOTAL	\$49,106,200	\$12,778,000	\$37,850,300	\$99,734,500
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SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, each of the programs in the Department of Health and Welfare listed below is authorized no more than the number of full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Child Welfare .....	389.50
Community Developmental Disability Services .....	176.96
Southwest Idaho Treatment Center .....	131.75
Service Integration .....	36.00

SECTION 3. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 4. TRUSTEE AND BENEFIT PAYMENTS. Notwithstanding the provisions of Section 67-3511, Idaho Code, funds budgeted in the trustee and benefit payments expenditure class shall not be transferred to any other expense class during fiscal year 2016.

SECTION 5. PROGRAM INTEGRITY. Notwithstanding any other provisions of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources appropriated for each budgeted program.

SECTION 6. LEGISLATIVE INTENT. It is the finding of the Legislature that the Department of Health and Welfare is responsible for the educational needs of school-age children placed in their custody by the courts for either child protective or for mental health issues. If the Department

of Health and Welfare places a child in a licensed residential treatment facility that includes a nonpublic accredited school, and it is determined by the Department of Health and Welfare that it is in the best interests of the child to be educated at the residential treatment facility, then it is the responsibility of the Department of Health and Welfare to pay for such education at the rate of \$71.05 per student per educational day. This intent language does not preclude other Idaho state agencies from exercising their responsibility to ensure a free and appropriate education for these students within the requirements of federal disability law. The fiscal impact of this language is approximately \$690,000 from existing appropriations.

SECTION 7. HEAD START APPROPRIATION FROM TEMPORARY ASSISTANCE FOR NEEDY FAMILY FUNDS. At a minimum, the Department of Health and Welfare is directed to maintain Head Start appropriations paid from federal Temporary Assistance for Needy Families funds at the same level as was paid to the Head Start Program in fiscal year 2007.

Approved April 2, 2015

CHAPTER 229  
(H.B. No. 296)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1001, IDAHO CODE, TO DEFINE TERMS AND TO REVISE DEFINITIONS; AMENDING SECTION 33-1002, IDAHO CODE, TO PROVIDE AMOUNTS NEEDED FOR STATE SUPPORT OF THE MASTER TEACHER PREMIUMS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-1004, IDAHO CODE, TO REVISE AND TO ESTABLISH ADDITIONAL PROVISIONS RELATING TO STAFF ALLOWANCE AND TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTION 33-1004A, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE EXPERIENCE AND EDUCATION MULTIPLIER, TO REMOVE PROVISIONS RELATING TO THE STATEWIDE AVERAGE MULTIPLIER FOR INSTRUCTIONAL STAFF, TO PROVIDE THAT ON A CERTAIN DATE PUPIL SERVICE STAFF SHALL BE DEEMED INSTRUCTIONAL STAFF FOR CERTAIN PURPOSES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1004B, IDAHO CODE, TO PROVIDE FOR A CAREER LADDER FOR INSTRUCTIONAL STAFF, TO PROVIDE ALLOCATION AMOUNTS, TO PROVIDE REQUIREMENTS RELATING TO PLACEMENT ON THE CAREER LADDER, TO PROVIDE FOR ADDITIONAL EDUCATION ALLOCATION AMOUNTS AND TO PROVIDE FOR AN ANNUAL REVIEW OF CERTAIN EVALUATIONS; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1004B, IDAHO CODE, TO PROVIDE FOR A CAREER LADDER FOR INSTRUCTIONAL STAFF, TO PROVIDE ALLOCATION AMOUNTS, TO PROVIDE REQUIREMENTS RELATING TO PLACEMENT ON THE CAREER LADDER, TO PROVIDE FOR ADDITIONAL EDUCATION ALLOCATION AMOUNTS AND TO PROVIDE FOR AN ANNUAL REVIEW OF CERTAIN EVALUATIONS; AMENDING SECTION 33-1004C, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-1004E, IDAHO CODE, TO REVISE PROVISIONS RELATING TO EACH DISTRICT'S SALARY-BASED APPORTIONMENT FOR INSTRUCTIONAL STAFF, ADMINISTRATIVE STAFF AND CLASSIFIED STAFF, TO ESTABLISH PROVISIONS RELATING TO DETERMINING EACH DISTRICT'S SALARY-BASED APPORTIONMENT FOR PUPIL SERVICE STAFF, TO MAKE TECHNICAL CORRECTIONS AND TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTION 33-1004F, IDAHO CODE, TO ESTABLISH ADDITIONAL PROVISIONS RELATING TO MASTER TEACHER PREMIUMS AND OBLIGATIONS TO RETIREMENT AND SOCIAL SECURITY BENEFITS; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1004I, IDAHO CODE, TO PROVIDE FOR MASTER TEACHER PREMIUMS, TO PROVIDE MINIMUM AND ADDITIONAL QUALIFICATIONS, TO PROVIDE A MASTER TEACHER PREMIUM AMOUNT, TO DEFINE TERMS AND TO GRANT THE STATE BOARD OF EDUCATION RULE-

MAKING AUTHORITY; AMENDING SECTION 33-1004J, IDAHO CODE, TO PROVIDE THAT CERTAIN STAFF ARE ELIGIBLE FOR LEADERSHIP PREMIUMS, TO PROVIDE FOR A COMMITTEE, TO REMOVE A LEADERSHIP PRIORITY AND TO ESTABLISH ADDITIONAL REPORTING REQUIREMENTS; AMENDING CHAPTER 12, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1201A, IDAHO CODE, TO PROVIDE FOR AN IDAHO PROFESSIONAL ENDORSEMENT AND ELIGIBILITY REQUIREMENTS, TO PROVIDE THAT CERTAIN STAFF SHALL AUTOMATICALLY OBTAIN AN IDAHO PROFESSIONAL ENDORSEMENT, TO GRANT THE BOARD OF EDUCATION RULEMAKING AUTHORITY AND TO DEFINE A TERM; AMENDING SECTION 33-1204, IDAHO CODE, TO PROVIDE THAT THE STATE BOARD OF EDUCATION SHALL SET FORTH CRITERIA FOR RENEWAL OF ADMINISTRATOR CERTIFICATES, TO PROVIDE RELATED REQUIREMENTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-515, IDAHO CODE, TO PROVIDE THAT CERTAIN STAFF MAY NOT BE PLACED ON A RENEWABLE CONTRACT STATUS, TO PROVIDE AN EXCEPTION AND TO PROVIDE A CORRECT CODE REFERENCE; PROVIDING A SUNSET DATE AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Section 33-1001, Idaho Code, be, and the same is hereby amended to read as follows:

33-1001. DEFINITIONS. The following words and phrases used in this chapter are defined as follows:

(1) "Administrative schools" means and applies to all elementary schools and kindergartens within a district that are situated ten (10) miles or less from both the other elementary schools and the principal administrative office of the district and all secondary schools within a district that are situated fifteen (15) miles or less from other secondary schools of the district.

(2) "Administrative staff" means those who hold an administrator certificate and are employed as a superintendent, an elementary or secondary school principal, or are assigned administrative duties over and above those commonly assigned to teachers.

(3) "Average daily attendance" or "pupils in average daily attendance" means the aggregate number of days enrolled students are present, divided by the number of days of school in the reporting period; provided, however, that students for whom no Idaho school district is a home district shall not be considered in such computation.

(4) "Career ladder" means the compensation table used for determining the allocations districts receive for instructional staff based on specific performance criteria and is made up of a residency compensation rung and a professional compensation rung.

(5) "Compensation rung" means the rung on the career ladder that corresponds with the compensation level performance criteria.

(36) "Elementary grades" or "elementary average daily attendance" means and applies to students enrolled in grades one (1) through six (6) inclusive, or any combination thereof.

(47) "Elementary schools" are schools that serve grades one (1) through six (6) inclusive, or any combination thereof.

(58) "Elementary/secondary schools" are schools that serve grades one (1) through twelve (12) inclusive, or any combination thereof.

(69) "Homebound student" means any student who would normally and regularly attend school, but is confined to home or hospital because of an illness or accident for a period of ten (10) or more consecutive days.

(10) "Instructional staff" means those involved in the direct instruction of a student or group of students and who hold an Idaho certificate issued under section 33-1201, Idaho Code.

(711) "Kindergarten" or "kindergarten average daily attendance" means and applies to all students enrolled in a school year, less than school year, or summer kindergarten program.

(12) "Measurable student achievement" means the measurement of student academic achievement or growth within a given interval of instruction for those students who have been enrolled in and attended eighty percent (80%) of the interval of instruction. Measures and targets shall be chosen at the district level in collaboration with the teacher and applicable district staff. Assessment tools that may be used for measuring student achievement and growth include:

- (a) Idaho standards achievement test;
- (b) Student learning objectives;
- (c) Formative assessments;
- (d) Teacher-constructed assessments of student growth;
- (e) Pre- and post-tests;
- (f) Performance based assessments;
- (g) Idaho reading indicator;
- (h) College entrance exams such as PSAT, SAT and ACT;
- (i) District adopted assessment;
- (j) End of course exams;
- (k) Advance placement exams; and
- (l) Professional-technical exams.

(13) "Performance criteria" means the standards specified for instructional staff to demonstrate teaching proficiency for a given compensation rung.

(14) "Professional compensation rung performance criteria" means:

- (a) An overall rating of proficient and no components rated as unsatisfactory on the state framework for teaching evaluation; and
- (b) Demonstrating the majority of their students have met their measurable student achievement targets.

(815) "Public school district" or "school district" or "district" means any public school district organized under the laws of this state, including specially chartered school districts.

(16) "Pupil service staff" means those who provide services to students but are not involved in direct instruction of those students, including staff holding a pupil personnel services certificate.

(917) "Secondary grades" or "secondary average daily attendance" means and applies to students enrolled in grades seven (7) through twelve (12) inclusive, or any combination thereof.

(108) "Secondary schools" are schools that serve grades seven (7) through twelve (12) inclusive, or any combination thereof.

~~(119) "Separate elementary school" means an elementary school which measured from itself, traveling on an all-weather road, is situated located~~ more than ten (10) miles distance on an all-weather road from both the nearest elementary school and elementary/secondary school serving like grades within the same school district and from the location of the office of the superintendent of schools of such district, or from the office of the chief administrative officer of such district if the district employs no superintendent of schools.

~~(120) "Separate kindergarten" means a kindergarten which measured from itself, traveling on an all-weather road, is situated located~~ more than ten (10) miles distance on an all-weather road from both the nearest kindergarten school within the same school district and from the location of the office of the superintendent of schools of such district, or from the office of the chief administrative officer of such district if the district employs no superintendent of schools.

~~(213) "Separate secondary school" means any secondary school which is located more than fifteen (15) miles by~~ on an all-weather road from any other

secondary school and elementary/secondary school serving like grades operated by the district.

(1422) "Support program" means the educational support program as described in section 33-1002, Idaho Code, the transportation support program described in section 33-1006, Idaho Code, and the exceptional education support program as provided described in section 33-1007, Idaho Code.

(1523) "Support unit" means a function of average daily attendance used in the calculations to determine financial support provided the public school districts.

(1624) "Teacher" means any person employed in a teaching, instructional, supervisory, educational administrative or educational and scientific capacity in any school district. In case of doubt the state board of education shall determine whether any person employed requires certification as a teacher.

SECTION 2. That Section 33-1002, Idaho Code, be, and the same is hereby amended to read as follows:

33-1002. EDUCATIONAL SUPPORT PROGRAM. The educational support program is calculated as follows:

(1) State Educational Support Funds. Add the state appropriation, including the moneys available in the public school income fund, together with all miscellaneous revenues to determine the total state funds.

(2) From the total state funds subtract the following amounts needed for state support of special programs provided by a school district:

(a) Pupil tuition-equivalency allowances as provided in section 33-1002B, Idaho Code;

(b) Transportation support program as provided in section 33-1006, Idaho Code;

(c) Feasibility studies allowance as provided in section 33-1007A, Idaho Code;

(d) The approved costs for border district allowance, provided in section 33-1403, Idaho Code, as determined by the state superintendent of public instruction;

(e) The approved costs for exceptional child approved contract allowance, provided in subsection 2. of section 33-2004, Idaho Code, as determined by the state superintendent of public instruction;

(f) Certain expectant and delivered mothers allowance as provided in section 33-2006, Idaho Code;

(g) Salary-based apportionment calculated as provided in sections 33-1004 through 33-1004F, Idaho Code;

(h) Unemployment insurance benefit payments according to the provisions of section 72-1349A, Idaho Code;

(i) For expenditure as provided by the public school technology program;

(j) For employee severance payments as provided in section 33-521, Idaho Code;

(k) For distributions to the Idaho digital learning academy as provided in section 33-1020, Idaho Code;

(l) For charter school facilities funds and reimbursements paid pursuant to section 33-5208(5), Idaho Code;

(m) For an online course portal as provided for in section 33-1024, Idaho Code;

(n) For advanced opportunities as provided for in section 33-1626, Idaho Code;

(o) For the "8 in 6 Program" as provided for in section 33-1628, Idaho Code;

(p) For additional math and science courses for high school students as provided in section 33-1021, Idaho Code;

(q) For leadership premiums as provided in section 33-1004J, Idaho Code;

(r) For master teacher premiums as provided in section 33-1004I, Idaho Code;

(s) For the support of provisions that provide a safe environment conducive to student learning and maintain classroom discipline, an allocation of \$300 per support unit; and

(st) Any additional amounts as required by statute to effect administrative adjustments or as specifically required by the provisions of any bill of appropriation;

to secure the total educational support distribution funds.

(3) Average Daily Attendance. The total state average daily attendance shall be the sum of the average daily attendance of all of the school districts of the state. The state board of education shall establish rules setting forth the procedure to determine average daily attendance and the time for, and method of, submission of such report. Average daily attendance calculation shall be carried out to the nearest hundredth. Computation of average daily attendance shall also be governed by the provisions of section 33-1003A, Idaho Code.

(4) Support Units. The total state support units shall be determined by using the tables set out hereafter called computation of kindergarten support units, computation of elementary support units, computation of secondary support units, computation of exceptional education support units, and computation of alternative school secondary support units. The sum of all of the total support units of all school districts of the state shall be the total state support units.

#### COMPUTATION OF KINDERGARTEN SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Units Allowed
41 or more....	40.....	1 or more as computed
31 - 40.99 ADA....	-.....	1
26 - 30.99 ADA....	-.....	.85
21 - 25.99 ADA....	-.....	.75
16 - 20.99 ADA....	-.....	.6
8 - 15.99 ADA....	-.....	.5
1 - 7.99 ADA....	-.....	count as elementary

#### COMPUTATION OF ELEMENTARY SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
300 or more ADA.....	.....	.. 15
	..23...grades 4, 5 & 6....	
	..22...grades 1, 2 & 3....1994-95	
	..21...grades 1, 2 & 3....1995-96	
	..20...grades 1, 2 & 3....1996-97	
	and each year thereafter.	
160 to 299.99 ADA...	20 .....	8.4
110 to 159.99 ADA...	19 .....	6.8



71.1 to 109.99 ADA...	16 .....	4.7
51.7 to 71.0 ADA...	15 .....	4.0
33.6 to 51.6 ADA...	13 .....	2.8
16.6 to 33.5 ADA...	12 .....	1.4
1.0 to 16.5 ADA...	n/a .....	1.0

COMPUTATION OF SECONDARY SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
750 or more....	18.5 .....	47
400 - 749.99 ADA....	16 .....	28
300 - 399.99 ADA....	14.5 .....	22
200 - 299.99 ADA....	13.5 .....	17
100 - 199.99 ADA....	12 .....	9
99.99 or fewer	Units allowed as follows:	
Grades 7-12	.....	8
Grades 9-12	.....	6
Grades 7- 9	.....	1 per 14 ADA
Grades 7- 8	.....	1 per 16 ADA

COMPUTATION OF EXCEPTIONAL EDUCATION SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
14 or more....	14.5 .....	1 or more as computed
12 - 13.99....	- .....	1
8 - 11.99....	- .....	.75
4 - 7.99....	- .....	.5
1 - 3.99....	- .....	.25

COMPUTATION OF ALTERNATIVE SCHOOL SECONDARY SUPPORT UNITS

Pupils in Attendance	Attendance Divisor	Minimum Units Allowed
12 or more.....	12 .....	1 or more as computed

In applying these tables to any given separate attendance unit, no school district shall receive less total money than it would receive if it had a lesser average daily attendance in such separate attendance unit. In applying the kindergarten table to a kindergarten program of less days than a full school year, the support unit allowance shall be in ratio to the number of days of a full school year. The attendance of students attending an alternative secondary school in a school district reporting less than one hundred (100) secondary students in average daily attendance shall not be

assigned to the alternative secondary table if the student is from a school district reporting less than one hundred (100) secondary students in average daily attendance, but shall instead be assigned to the secondary table of the school district in which they are attending the alternative secondary school, unless the alternative secondary school in question serves students from multiple districts reporting less than one hundred (100) secondary students in average daily attendance. The tables for exceptional education and alternative school secondary support units shall be applicable only for programs approved by the state department of education following rules established by the state board of education. Moneys generated from computation of support units for alternative schools shall be utilized for alternative school programs. School district administrative and facility costs may be included as part of the alternative school expenditures.

(5) State Distribution Factor per Support Unit. Divide educational support program distribution funds, after subtracting the amounts necessary to pay the obligations specified in subsection (2) of this section, by the total state support units to secure the state distribution factor per support unit.

(6) District Support Units. The number of support units for each school district in the state shall be determined as follows:

(a) (i) Divide the actual average daily attendance, excluding students approved for inclusion in the exceptional child educational program, for the administrative schools and each of the separate schools and attendance units by the appropriate divisor from the tables of support units in this section, then add the quotients to obtain the district's support units allowance for regular students, kindergarten through grade 12 including alternative school secondary students. Calculations in application of this subsection shall be carried out to the nearest hundredth.

(ii) Divide the combined totals of the average daily attendance of all preschool, kindergarten, elementary, secondary, juvenile detention center students and students with disabilities approved for inclusion in the exceptional child program of the district by the appropriate divisor from the table for computation of exceptional education support units to obtain the number of support units allowed for the district's approved exceptional child program. Calculations for this subsection shall be carried out to the nearest hundredth when more than one (1) unit is allowed.

(iii) The total number of support units of the district shall be the sum of the total support units for regular students, ~~subsection (6) paragraph (a) (i) of this subsection~~, and the support units allowance for the approved exceptional child program, ~~subsection (6) paragraph (a) (ii) of this subsection~~.

(b) Total District Allowance Educational Program. Multiply the district's total number of support units, carried out to the nearest hundredth, by the state distribution factor per support unit and to this product add the approved amount of programs of the district provided in subsection (2) of this section to secure the district's total allowance for the educational support program.

(c) District Share. The district's share of state apportionment is the amount of the total district allowance, ~~subsection (6) paragraph (b) of this subsection~~.

(d) Adjustment of District Share. The contract salary of every non-certificated teacher shall be subtracted from the district's share as calculated from the provisions of ~~subsection (6) paragraph (c) of this subsection~~.

(7) Property Tax Computation Ratio. In order to receive state funds pursuant to this section a charter district shall utilize a school maintenance and operation property tax computation ratio for the purpose of cal-

culating its maintenance and operation levy, that is no greater than that which it utilized in tax year 1994, less four-tenths of one percent (.4%). As used herein, the term "property tax computation ratio" shall mean a ratio determined by dividing the district's certified property tax maintenance and operation budget by the actual or adjusted market value for assessment purposes as such values existed on December 31, 1993. Such maintenance and operation levy shall be based on the property tax computation ratio multiplied by the actual or adjusted market value for assessment purposes as such values existed on December 31 of the prior calendar year.

SECTION 3. That Section 33-1004, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004. STAFF ALLOWANCE. For each school district, a staff allowance shall be determined as follows:

(1) Using the daily attendance reports that have been submitted for computing the February 15 apportionment of state funds as provided in section 33-1009, Idaho Code, ~~determine~~ calculate the total support units for the district in the manner provided in section 33-1002(6) (a), Idaho Code;

(2) Determine the instructional staff allowance by multiplying the support units by 1.1021. A district must demonstrate that it actually employs the number of certificated instructional staff allowed, except as provided in subsection (56) (f) and (g) of this section. If the district does not employ the number allowed, the staff allowance shall be reduced to the actual number employed, except as provided in subsection (56) (f) and (g) of this section;

(3) Determine the pupil service staff allowance by multiplying the support units by 0.079;

(4) Determine the administrative staff allowance by multiplying the support units by .075;

(45) Determine the classified staff allowance by multiplying the support units by .375;

(56) Additional conditions governing staff allowance:

(a) In determining the number of staff in subsections (2), (3) and, (4) and (5) of this section, a district may contract separately for services to be rendered by nondistrict employees and such employees may be counted in the staff allowance. A "nondistrict employee" means a person for whom the school district does not pay the employer's obligations for employee benefits. When a district contracts for the services of a nondistrict employee, only the salary portion of the contract shall be allowable for computations.

(b) If there are circumstances preventing eligible use of staff allowance to which a district is entitled as provided in subsections (2) and, (3) and (4) of this section, an appeal may be filed with the state department of education outlining the reasons and proposed alternative use of these funds, and a waiver may be granted.

(c) For any district with less than forty (40) support units:

(i) The instructional staff allowance shall be calculated applying the actual number of support units. If the actual instructional staff employed in the school year is greater than the instructional staff allowance, then the instructional staff allowance shall be increased by one-half (1/2) staff allowance; and

(ii) The administrative staff allowance shall be calculated applying the actual number of support units. If the actual administrative staff employed in the school year is greater than the administrative staff allowance, then the administrative staff allowance shall be increased by one-half (1/2) staff allowance.

(iii) Additionally, for any district with less than twenty (20) support units, the instructional staff allowance shall be calculated applying the actual number of support units. If the number of instructional staff employed in the school year is greater than the instructional staff allowance, the staff allowance shall be increased as provided in subparagraphs (i) and (ii) of this paragraph, and by an additional one-half (1/2) instructional staff allowance.

(d) For any school district with one (1) or more separate secondary schools serving grades nine (9) through twelve (12), the instructional staff allowance shall be increased by two (2) additional instructional staff allowances for each such separate secondary school.

(e) Only instructional, pupil service and administrative staff and classified personnel compensated by the school district from the general maintenance and operation fund of the district shall be included in the calculation of staff allowance or in any other calculations based upon staff, including determination of the experience and education multiplier, the reporting requirements, or the district's salary-based apportionment calculation. No food service staff or transportation staff shall be included in the staff allowance.

(f) A district may utilize up to fifteen percent (15%) of the moneys associated with positions funded pursuant to subsection (2) of this section to pay another school district or public charter school for instructional services or to defray the cost of providing virtual education coursework, including virtual dual credit coursework, without a reduction in the number of funded positions being imposed.

(g) A district may employ nine and one-half percent (9.5%) fewer positions than funded pursuant to subsections (2) and (3) of this section, without a reduction in the number of funded positions being imposed. Beginning in fiscal year 2016, this figure shall be reduced by one percent (1%) each year for each school district in which the average class size, as determined from prior fiscal year data reported to the state department of education, was at least one (1) student greater than the statewide average class size. The state department of education shall report to the legislature every February, beginning in 2015, on the reductions scheduled to take place in this figure, by school district, in the ensuing fiscal year.

(67) In the event that the staff allowance in any category is insufficient to meet accreditation standards, a district may appeal to the state board of education, demonstrating the insufficiency, and the state board may grant a waiver authorizing sufficient additional staff to be included within the staff allowance to meet accreditation standards. Such a waiver shall be limited to one (1) year, but may be renewed upon showing of continuing justification.

(78) A district may utilize a portion of the instructional staff allowance provided for in this section for kindergarten teachers to visit the parents or guardians of students during the first week of the kindergarten school year. Such visits may take place at school, at the student's home or at another location agreed to by the teacher and parents or guardians. The purpose of such visits is to help strengthen the working relationship between the teacher, the parents or guardians, and the student. The visits should be used as an opportunity to help establish the teacher's expectations of the student. The visit should also provide an opportunity for the parents or guardians to explain their expectations. The amount of moneys to be expended for such visits by the district may not exceed the amount equal to one (1) week of instructional staff allowance computed for kindergarten instructors in the district.

SECTION 4. That Section 33-1004A, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004A. EXPERIENCE AND EDUCATION MULTIPLIER. (1) Each instructional pupil service and administrative staff position shall be assigned an appropriate multiplier based upon the following table:

Years	EXPERIENCE AND EDUCATION						
	BA	BA + 12	BA + 24	MA	MA + 12	MA + 24	MA + 36
0	1.00000	1.03750	1.07640	BA + 36	BA + 48	BA + 60	ES/DR
1	1.03750	1.07640	1.11680	1.11680	1.15870	1.20220	1.24730
2	1.07640	1.11680	1.15870	1.20220	1.24730	1.29410	1.34260
3	1.11680	1.15870	1.20220	1.24730	1.29410	1.34260	1.39290
4	1.15870	1.20220	1.24730	1.29410	1.34260	1.39290	1.44510
5	1.20220	1.24730	1.29410	1.34260	1.39290	1.44510	1.49930
6	1.24730	1.29410	1.34260	1.39290	1.44510	1.49930	1.55550
7	1.29410	1.34260	1.39290	1.44510	1.49930	1.55550	1.61380
8	1.34260	1.39290	1.44510	1.49930	1.55550	1.61380	1.67430
9	1.39290	1.44510	1.49930	1.55550	1.61380	1.67430	1.73710
10	1.39290	1.49930	1.55550	1.61380	1.67430	1.73710	1.80220
11	1.39290	1.49930	1.55550	1.61380	1.73710	1.80220	1.86980
12	1.39290	1.49930	1.55550	1.61380	1.73710	1.86980	1.93990
13 or more	1.39290	1.49930	1.55550	1.61380	1.73710	1.86980	2.01260

(2) In determining the experience factor, the actual years of certificated service for pupil service staff, or teaching or and administrative service for administrator certificate holders in a public school, in an accredited private or parochial school, or beginning in the 2005-06 school year and thereafter in an accredited college or university shall be credited.

(3) In determining the education factor, only credits earned after initial certification, based upon a transcript on file with the teacher certification office of the state department of education, earned at an institution of higher education accredited by a body recognized by the state board of education or a regional accrediting association, shall be allowed; however, successful completion of a state approved evaluation training and proof of proficiency shall be counted as up to three (3) transcribed credits for determination of the education factor and meeting recertification requirements. ~~Instructional staff whose initial certificate is an occupational specialist certificate shall be treated as BA degree prepared instructional staff. Credits earned by such occupational specialist instructional staff after initial certification shall be credited toward the education factor.~~

~~In determining the statewide average multiplier for instructional staff, no multiplier in excess of 1.59092 shall be used. If the actual statewide average multiplier for instructional staff, as determined by this section, exceeds 1.59092, then each school district's instructional staff multiplier shall be multiplied by the result of 1.59092 divided by the actual statewide average multiplier for instructional staff.~~

(4) In determining the statewide average multiplier for administrative staff, no multiplier in excess of 1.86643 shall be used. If the actual statewide average multiplier for administrative staff, as determined by this section, exceeds 1.86643, then each school district's administrative staff multiplier shall be multiplied by the result of 1.86643 divided by the actual statewide average multiplier for administrative staff.

(5) Notwithstanding any other law to the contrary, on and after July 1, 2016, pupil service staff shall be deemed instructional staff for purposes of sections 33-1004B and 33-1004I, Idaho Code.

SECTION 5. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1004B, Idaho Code, and to read as follows:

33-1004B. CAREER LADDER. (1) Effective July 1, 2015, all existing instructional staff shall be placed in a cohort on the career ladder starting with the second cell on the residency/professional compensation rung that corresponds with the next higher allocation amount than is currently received by the district, based on the experience and education index pursuant to section 33-1004A, Idaho Code, as applied in fiscal year 2015. For each year between July 1, 2015, and June 30, 2019, those instructional staff will move one (1) cell on the career ladder for each year they are employed by a district and meet the applicable performance criteria for the compensation rung and implementation year, unless such movement would result in the district receiving a lesser allocation than the district would have received if the instructional staff would have moved based on the experience and education index as applied in fiscal year 2015, for such instructional staff the district salary apportionment calculation shall use the amount that would have been applied based on the experience and education index.

(a) Instructional staff who are in their first year of holding a certificate shall be placed in the first cell of the residency compensation rung and shall move one (1) cell on the residency compensation rung for each year they hold a certificate thereafter, for up to three (3) years, at which point they will remain in the third cell of the residency rung until they earn a professional endorsement.

(b) Instructional staff new to teaching in Idaho who hold a certificate from a state other than Idaho and who are approved to teach in Idaho will be placed into the cohort of instructional staff on the career ladder table equivalent to their experience and education pursuant to section 33-1004A, Idaho Code, as applied in fiscal year 2015.

(c) In addition to the allocation amount specified for the applicable cell on the career ladder, school districts shall receive an additional allocation amount for instructional staff holding a professional endorsement who have acquired additional education and meet the professional compensation rung performance criteria. In determining the additional education allocation amount, only credits and degrees earned based upon a transcript on file with the teacher certification office of the state department of education, earned at an institution of higher education accredited by a body recognized by the state board of education or credits earned through an internship or other work experience approved by the state board of education, shall be credited toward the education allocation. Education allocation amounts are not cumulative. Instructional staff whose initial certificate is an occupational specialist certificate shall be treated as BA degree prepared instructional staff. Credits earned by such occupational specialist instructional staff after initial certification shall be credited toward the education allocation. Additional allocations are:

(i) Effective July 1, 2015, through June 30, 2016, the education allocation shall be:

1. For instructional staff holding a professional endorsement and a baccalaureate degree and twenty-four (24) or more credits, four hundred dollars (\$400) per fiscal year.
2. For instructional staff holding a professional endorsement and a master degree, seven hundred dollars (\$700) per fiscal year.

(ii) Effective July 1, 2016, through June 30, 2017, the education allocation shall be:

1. For instructional staff holding a professional endorsement and a baccalaureate degree and twenty-four (24) or more credits, eight hundred dollars (\$800) per fiscal year.
2. For instructional staff holding a professional endorsement and a master degree, one thousand four hundred dollars (\$1,400) per fiscal year.

(iii) Effective July 1, 2017, through June 30, 2018, the education allocation shall be:

1. For instructional staff holding a professional endorsement and a baccalaureate degree and twenty-four (24) or more credits, one thousand two hundred dollars (\$1,200) per fiscal year.
2. For instructional staff holding a professional endorsement and a master degree, two thousand one hundred dollars (\$2,100) per fiscal year.

(iv) Effective July 1, 2018, through June 30, 2019, the education allocation shall be:

1. For instructional staff holding a professional endorsement and a baccalaureate degree and twenty-four (24) or more credits, one thousand six hundred dollars (\$1,600) per fiscal year.
2. For instructional staff holding a professional endorsement and a master degree, two thousand eight hundred dollars (\$2,800) per fiscal year.

(v) Effective July 1, 2019, through June 30, 2020, the education allocation shall be:

1. For instructional staff holding a professional endorsement and a baccalaureate degree and twenty-four (24) or more credits, two thousand dollars (\$2,000) per fiscal year.
2. For instructional staff holding a professional endorsement and a master degree, three thousand five hundred (\$3,500) per fiscal year.

(d) Effective July 1, 2015, through June 30, 2016, the allocation shall be:

Base Allocation	1	2	3	4	5	6	7	8	9	10
Residency/										
Professional	\$32,700	\$33,200	\$33,822							
Professional	\$35,498	\$36,885	\$38,311	\$39,775	\$41,282	\$42,089	\$43,668	\$45,305	\$47,004	\$47,603

(e) Effective July 1, 2016, through June 30, 2017, the allocation shall be:

Base										
Allocation	1	2	3	4	5	6	7	8	9	10
Residency/										
Professional	\$33,400	\$34,250	\$35,117							
Professional	\$37,249	\$38,758	\$39,546	\$41,113	\$41,961	\$43,591	\$44,503	\$46,201	\$47,183	\$48,202

(f) Effective July 1, 2017, through June 30, 2018, the allocation shall be:

Base										
Allocation	1	2	3	4	5	6	7	8	9	10
Residency	\$34,600	\$35,500	\$36,411							
Professional	\$38,999	\$40,630	\$41,155	\$42,825	\$43,391	\$45,102	\$45,711	\$47,467	\$48,122	\$48,802

(2) Effective July 1, 2018, through June 30, 2019, school districts shall receive an allocation for instructional staff based on the instructional staffs' position on the career ladder.

(a) Instructional staff in their first year of holding a professional endorsement shall be placed in the first cell of the professional compensation rung.

(b) Instructional staff previously placed within a cohort shall continue to move one (1) cell on the applicable rung with their cohort unless they have failed to meet the compensation rung performance criteria for the previous three (3) years. Allocations to districts for instructional staff who have failed to meet the professional compensation rung performance criteria for the previous three (3) years shall be the same as the previous fiscal year. This also applies to the educational allocation.

(c) Effective July 1, 2018, through June 30, 2019, the allocation shall be:

Base										
Allocation	1	2	3	4	5	6	7	8	9	10
Residency	\$35,800	\$36,750	\$37,706							
Professional	\$40,750	\$42,503	\$42,765	\$44,538	\$44,820	\$46,614	\$46,918	\$48,734	\$49,061	\$49,401

(3) Effective July 1, 2019, through June 30, 2020, school districts shall receive an allocation for instructional staff based on the instructional staffs' position on the career ladder as follows:

(a) Instructional staff in their first year of holding a professional endorsement shall be placed in the first cell of the professional compensation rung.

(b) Instructional staff previously placed within a cohort shall continue to move one (1) cell on the applicable rung with their cohort unless they have failed to meet the professional compensation rung performance criteria for three (3) of the previous four (4) years. Allocations to districts for instructional staff who have failed to meet the professional compensation rung performance criteria for three (3) of the previous four (4) years shall be the same as the previous fiscal year. This also applies to the educational allocation.



(c) Effective July 1, 2019, through June 30, 2020, the allocation shall be:

Base

Allocation	1	2	3	4	5	6	7	8	9	10
Residency	\$37,000	\$38,000	\$39,000							
Professional	\$42,500	\$44,375	\$46,250	\$48,125	\$50,000					

(4) A review of a sample of evaluations completed by administrators shall be conducted annually to verify such evaluations are being conducted with fidelity to the state framework for teaching evaluation. The state department of education shall randomly select a sample of administrators throughout the state. A portion of such administrators' instructional staff employee evaluations shall be independently reviewed. The state department of education shall appoint persons to conduct the reviews. Administrator certificate holders shall be required to participate in ongoing evaluation training pursuant to section 33-1204, Idaho Code. The state department of education shall report annually the findings of such reviews to the senate education committee, the house of representatives education committee, the state board of education and the deans of Idaho's approved teacher preparation programs. The state board of education shall promulgate rules implementing the provisions of this subsection.

SECTION 6. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1004B, Idaho Code, and to read as follows:

33-1004B. CAREER LADDER. School districts shall receive an allocation for instructional staff based on their instructional staffs' position on the career ladder as follows:

(1) Instructional staff who are in their first year of holding a certificate shall be placed in the first cell of the residency compensation rung and shall move one (1) cell on the residency compensation rung for each year they hold a certificate thereafter for up to three (3) years, at which point they will remain in the third cell of the residency rung until they earn a professional endorsement.

(2) Instructional staff in their first year of holding a professional endorsement shall be placed in the first cell of the professional compensation rung.

(3) Instructional staff on the professional compensation rung with four (4) years of experience shall move one (1) cell on the professional compensation rung unless they have failed to meet the professional compensation rung performance criteria for three (3) of the previous four (4) years. Instructional staff on the professional compensation rung who meet the performance criteria for three (3) of the previous five (5) years, one (1) of which must be during the fourth or fifth year, shall move one (1) cell. Allocations for instructional staff who do not meet the professional compensation rung performance criteria for three (3) of the previous five (5) years, one (1) of which must be during the fourth or fifth year, shall remain at the previous fiscal year allocation level. This also applies to the educational allocation.

(4) In addition to the allocation amount specified for the applicable cell on the career ladder, school districts shall receive an additional allocation amount for instructional staff holding a professional endorsement who have acquired additional education and meet the professional compensation rung performance criteria. In determining the additional education allocation amount, only transcribed credits and degrees on file with the teacher certification office of the state department of education,

earned at an institution of higher education accredited by a body recognized by the state board of education or credits earned through an internship or work experience approved by the state board of education, shall be allowed. All credits and degrees earned must be in a relevant pedagogy or content area as determined by the state department of education. Additional education allocation amounts are not cumulative. Instructional staff whose initial certificate is an occupational specialist certificate shall be treated as BA degree prepared instructional staff. Credits earned by such occupational specialist instructional staff after initial certification shall be credited toward the education allocation. Additional allocations are:

(a) For instructional staff holding a professional endorsement, a baccalaureate degree and twenty-four (24) or more credits, two thousand dollars (\$2,000) per fiscal year.

(b) For instructional staff holding a professional endorsement and a master degree, three thousand five hundred dollars (\$3,500) per fiscal year.

(c) Effective July 1, 2020, the allocation shall be:

Base					
Allocation	1	2	3	4	5
Residency	\$37,000	\$38,000	\$39,000		
Professional	\$42,500	\$44,375	\$46,250	\$48,125	\$50,000

(5) A review of a sample of evaluations completed by administrators shall be conducted annually to verify such evaluations are being conducted with fidelity to the state framework for teaching evaluation. The state department of education shall randomly select a sample of administrators throughout the state. A portion of such administrators' instructional staff employee evaluations shall be independently reviewed. The state department of education shall appoint persons to conduct the reviews. Administrator certificate holders shall be required to participate in ongoing evaluation training pursuant to section 33-1204, Idaho Code. The state department of education shall report annually the findings of such reviews to the senate education committee, the house of representatives education committee, the state board of education and the deans of Idaho's approved teacher preparation programs. The state board of education shall promulgate rules implementing the provisions of this subsection.

SECTION 7. That Section 33-1004C, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004C. BASE AND MINIMUM SALARIES -- LEADERSHIP PREMIUMS -- EDUCATION AND EXPERIENCE INDEX. (1) The following shall be reviewed annually by the legislature:

(a) The base salary figures pursuant to subsections (1-), (2-), and (3-) and (4) of section 33-1004E, Idaho Code;

(b) The minimum instructional salary figure pursuant to subsection (1-) of section 33-1004E, Idaho Code; and

(c) The leadership premium figures pursuant to subsections (1) and (2) of section 33-1004J, Idaho Code.

(2) The statewide education and experience index (or state average index, or state index) is the average of all qualifying employees, instructional and administrative respectively. It is determined by totaling the index value for all qualifying employees and dividing by the number of employees.

SECTION 8. That Section 33-1004E, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004E. DISTRICT'S SALARY-BASED APPORTIONMENT. Each district shall be entitled to a salary-based apportionment calculated as provided in this section.

(1.) To determine the apportionment for instructional staff, first determine the district average experience and education index by placing all eligible district certificated instructional employees on the statewide index provided in section 33-1004A, take the amounts indicated on the career ladder table plus the amounts associated with the additional education allocation amounts pursuant to section 33-1004B, Idaho Code, and calculate the weighted average. The resulting average is the district index. Districts with an index above the state average index shall receive their actual index but not more than the state average plus .03 for the 1994-95 school year, and shall receive their actual index but not more than the state average plus .06 for the 1995-96 school year, and thereafter shall receive their actual district index. The district instructional staff index shall be multiplied by the instructional base salary of \$23,354. The amount so determined shall be multiplied by the district staff allowance for instructional staff determined as provided in section 33-1004(2), Idaho Code. The instructional salary allocation shall be further increased by the amount necessary for each full-time equivalent instructional staff member placed on the experience and education index to be allocated at least the minimum salary mandated by this section. Full-time instructional staff salaries shall be determined from a salary schedule developed by each district and submitted to the state department of education. No full-time instructional staff member shall be paid less than \$31,750 the minimum dollar amount on the career ladder residency compensation rung pursuant to section 33-1004B, Idaho Code, for the applicable fiscal year. If an instructional staff member has been certified by the national board for professional teaching standards, the staff member shall be designated as a master teacher and receive two thousand dollars (\$2,000) per year for five (5) years from the year in which national board certification was earned. The instructional salary district staff allotment shall be increased by two thousand dollars (\$2,000) for each master teacher national board certified instructional staff person and pupil service staff member who earned national board certification; provided however, that no such awards shall be paid for the period July 1, 2010, through June 30, 2011, nor shall any liabilities accrue or payments be made pursuant to this section in the future to any individuals who would have otherwise qualified for a payment during this stated time period. The resulting amount is the district's salary-based apportionment for instructional staff and pupil service staff. For purposes of this section, teachers qualifying for the salary increase as master teacher shall be those who have been recognized as national board certified teachers as of July 1 of each year.

(2-) To determine the apportionment for pupil service staff, first determine the district average experience and education index by placing all eligible district certificated pupil service employees on the statewide index pursuant to section 33-1004A, Idaho Code. The resulting average is the district index. The district pupil service staff index shall be multiplied by the instructional base salary of twenty-three thousand three hundred fifty-four dollars (\$23,354). The amount so determined shall be multiplied by the district staff allowance for pupil service staff determined pursuant to section 33-1004(3), Idaho Code. The pupil service staff salary allocation shall be further increased by the amount necessary for each full-time equivalent pupil service staff member placed on the experience and education index to be allocated at least the minimum salary mandated by this section. Full-time pupil service staff salaries shall be determined from a salary

schedule developed by each district and submitted to the state department of education. The resulting amount is the district's salary-based apportionment for pupil service staff. No full-time pupil service staff member shall be paid less than thirty-one thousand seven hundred fifty dollars (\$31,750).

(3) To determine the apportionment for district administrative staff, first determine the district average experience and education index by placing all eligible certificated administrative employees on the statewide index provided in section 33-1004A, Idaho Code. The resulting average is the district index. Districts with an index above the state average index shall receive their actual index but not more than the state average plus .03 for the school year 1994-95, and shall receive their actual index but not more than the state average index plus .06 for the 1995-96 school year, and thereafter shall receive their actual district index. The district administrative staff index shall be multiplied by the base salary of thirty-two thousand one hundred fifty-one dollars (\$32,151). The amount so determined shall be multiplied by the district staff allowance for administrative staff determined as provided in section 33-1004(34), Idaho Code. The resulting amount is the district's salary-based apportionment for administrative staff.

3-(4) To determine the apportionment for classified staff, multiply nineteen thousand two hundred forty-nine dollars (\$19,249) by the district classified staff allowance determined as provided in section 33-1004(45), Idaho Code. The amount so determined is the district's apportionment for classified staff.

4-(5) The district's salary-based apportionment shall be the sum of the apportionments calculated in subsections (1-), (2-), and (3-) and (4) of this section, plus the benefit apportionment as provided in section 33-1004F, Idaho Code.

SECTION 9. That Section 33-1004F, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004F. OBLIGATIONS TO RETIREMENT AND SOCIAL SECURITY BENEFITS. Based upon the actual salary-based apportionment, as determined in section 33-1004E, Idaho Code, the master teacher premiums distributed pursuant to section 33-1004I, Idaho Code, and the leadership premiums distributed pursuant to section 33-1004J, Idaho Code, there shall be allocated that amount required to meet the employer's obligations to the public employee retirement system and to social security.

SECTION 10. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1004I, Idaho Code, and to read as follows:

33-1004I. MASTER TEACHER PREMIUMS. (1) A portion of the moneys available to the education support program shall be distributed per full-time equivalent instructional staff position employed by each school district. Such moneys shall be paid to instructional staff employees who have earned a master teacher designation by meeting the minimum qualifications set forth in subsection (2) of this section and the additional qualifications developed or adopted by the employing school district pursuant to subsection (3) of this section, in an amount set forth in subsection (4) of this section.

(2) The minimum qualifications for an instructional staff employee to earn a master teacher designation shall be as follows:

(a) The instructional staff employee must have eight (8) or more years of teaching experience provided that the three (3) years immediately preceding the award must be continuous;

(b) The instructional staff employee must demonstrate mastery of instructional techniques for not less than three (3) of the previous five (5) years of instruction through:

- (i) Artifacts demonstrating evidence of effective teaching; and
- (ii) Successful completion of an annual individualized professional learning plan; and

(c) A majority of the instructional staff employee's students meet measurable student achievement as defined in section 33-1001, Idaho Code, for not less than three (3) of the previous five (5) years.

(3) In addition to the minimum qualifications for a master teacher designation set forth in subsection (2) of this section:

(a) Local school districts may develop and require additional qualifications showing demonstrated mastery of instructional techniques and professional practice through multiple measures, provided that such qualifications shall be developed by a committee consisting of teachers, administrators and other school district stakeholders and shall first be approved by the state board of education;

(b) Local school districts may develop plans that recognize groups of teachers based on measurable student achievement goals aligned with school district approved continuous improvement plans. Groups may be school-wide or may be smaller groups such as grade levels or by subject matter. Each teacher in a master teacher group shall receive a master teacher premium if goals are met according to the district plans. Plans shall be developed by a committee consisting of teachers, administrators and other school district stakeholders and shall first be approved by the state board of education. Any school district that does not follow their preapproved plan shall not receive future master teacher premium dollars; or

(c) If a local school district has not developed qualifications pursuant to paragraph (a) or (b) of this subsection, then the school district shall adopt and require additional qualifications showing demonstrated mastery of instructional techniques and professional practice through multiple measures as developed by a committee facilitated by the state board of education consisting of teachers, administrators and other stakeholders, which measures shall be approved by the state board of education.

(4) The amount of the master teacher premium paid to a qualified instructional staff employee shall be four thousand dollars (\$4,000) each year for three (3) years starting with the initial award of the master teacher premium. After the third year of receiving the master teacher premium, the instructional staff employee must continue to demonstrate that he or she meets the master teacher premium qualifications in each subsequent year. If the qualifications are not met, then the premium will be discontinued until such time as the qualifications are met.

(5) Local school district boards of trustees may provide master teacher premiums to instructional staff employees consistent with the provisions of this section.

(6) 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."

(7) The state board of education may promulgate rules implementing the provisions of this section.

SECTION 11. That Section 33-1004J, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004J. LEADERSHIP PREMIUMS. (1) Of the moneys available to the educational support program, eight hundred fifty dollars (\$850) shall be distributed per full-time equivalent instructional and pupil service staff po-

sition employed by each school district. Such moneys shall be paid to instructional and pupil service staff employees for leadership activities as provided in paragraphs (a) through (hg) of this subsection. Such premiums shall be valid only for the fiscal year for which the premiums are made and shall be made for one (1) or more of the following reasons as identified as leadership priorities by a committee consisting of teachers, administrators and other school district stakeholders and shall be approved by the board of trustees:

- (a) ~~Providing instruction in a subject in which the employee holds a content area master's degree;~~
- ~~(b) Teaching a course in which students earn both high school and college credit;~~
- (eb) Teaching a course to middle school students in which the students earn both middle school and high school credit;
- (dc) Holding and providing service in multiple nonadministrative certificate or subject endorsement areas;
- (ed) Serving in an instructional or pupil service position designated as hard to fill by the board of trustees;
- (fe) Providing mentoring, peer assistance or professional development pursuant to section 33-512(17), Idaho Code;
- (gf) Having received professional development in career and academic counseling, and then providing career or academic counseling for students, with such services incorporated within or provided in addition to the teacher's regular classroom instructional or pupil service duties;
- (hg) Other leadership duties designated by the board of trustees, exclusive of duties related to student activities or athletics. Such duties shall require that the employee work additional time as a condition of the receipt of a leadership premium.

(2) Local school district boards of trustees may provide leadership premiums to instructional or pupil service staff employees consistent with the provisions of this section. The decision as to whom and how many receive leadership premiums, and in what amounts, shall not be subject to collective bargaining, any other provision of law notwithstanding. A board may provide multiple leadership premiums to an instructional or pupil service staff employee. However, no such employee shall receive cumulative leadership premiums in excess of twenty-five percent (25%) of the base salary amount designated in section 33-1004E, Idaho Code, nor less than eight hundred fifty dollars (\$850).

(3) The state department of education may require reports of information as needed to implement the provisions of this section. Also, the department shall report, on or before January 15, 2016, and on or before January 15 of each subsequent year, to the governor, the senate education committee and the house of representatives education committee relevant information regarding leadership premiums, including the following:

- (a) The number of leadership premiums issued, by district;
- (b) The average dollar amount of leadership premiums issued, by district;
- (c) The highest and lowest leadership premium issued, by district; and
- (d) The percent of instructional and pupil service staff positions receiving leadership premiums and the cumulative amount of such premiums, by district; and
- (e) The reasons identified as leadership priorities approved by the board of trustees as listed in subsection (1) of this section.

(4) For the purposes of this section, the term "school district" also means "public charter school," and the term "board of trustees" also means "board of directors."

(5) The state board of education is hereby authorized to promulgate rules to implement the provisions of this section.

SECTION 12. That Chapter 12, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1201A, Idaho Code, and to read as follows:

33-1201A. IDAHO PROFESSIONAL ENDORSEMENT -- ELIGIBILITY. (1) Any instructional staff employee who is issued a certificate under section 33-1201, Idaho Code, on or after July 1, 2015, will receive mentoring as outlined in such employee's individualized professional learning plan during the initial three (3) years of holding such certificate. Upon holding a certificate for three (3) years, any such instructional staff employee may apply for an Idaho professional endorsement. To be eligible for an Idaho professional endorsement, the instructional staff employee must:

- (a) Have held a certificate for at least three (3) years, or have completed a state board of education approved interim certificate of three (3) years or longer;
- (b) Show they met the professional compensation rung performance criteria for two (2) of the three (3) previous years or the third year;
- (c) Have a written recommendation from the employing school district; and
- (d) Have an annual individualized professional learning plan developed in conjunction with the employee's school district supervisor.

Instructional staff employees may provide additional evidence demonstrating effective teaching that may be considered in exceptional cases for purposes of determining proficiency and student achievement in the event required standards for professional endorsement are not met.

(2) An instructional staff employee who has held a certificate for three (3) or more years prior to the effective date of this act shall automatically obtain an Idaho professional endorsement under this section.

(3) The state board of education shall promulgate rules implementing the provisions of this section.

(4) For the purposes of this section, "instructional staff" means those involved in the direct instruction of a student or group of students and who hold a certificate issued under section 33-1201, Idaho Code.

SECTION 13. That Section 33-1204, Idaho Code, be, and the same is hereby amended to read as follows:

33-1204. VALIDITY, DURATION, RENEWAL AND LAPSE OF CERTIFICATES. (1) The state board of education shall by rule provide for the validity, duration, renewal and lapse of certificates. In addition, rules promulgated by the state board of education shall set forth criteria for renewal of administrator certificates, which shall include a requirement that administrator certificate holders must complete a course consisting of a minimum of three (3) semester credits in the statewide framework for teachers evaluations, such course shall include a laboratory component.

(2) If the holder of a certificate who has undergone a criminal history check pursuant to district policy as provided in subsection (15) of section 33-512, Idaho Code, is found to have been convicted of any felony crime enumerated in section 33-1208, Idaho Code, the certificate shall be revoked or suspended as provided in this chapter.

SECTION 14. That Section 33-515, Idaho Code, be, and the same is hereby amended to read as follows:

33-515. ISSUANCE OF RENEWABLE CONTRACTS. (1) During the third full year of continuous employment by the same school district, including any specially chartered district, each certificated employee named in subsection (1624) of section 33-1001, Idaho Code, and each school nurse and school librarian shall be evaluated for a renewable contract and shall, upon having

been offered a contract for the next ensuing year, having given notice of acceptance of renewal and upon signing a contract for a fourth full year, be placed on a renewable contract status with said school district subject to the provisions included in this chapter, provided that instructional staff who have not obtained a professional endorsement under section 33-1201A, Idaho Code, may not be placed on a renewable contract status provided however, if the career ladder pursuant to section 33-1004B, Idaho Code, is not funded, then a professional endorsement shall not be required.

(2) After the third full year of employment and at least once annually, the performance of each such certificated employee, school nurse, or school librarian shall be evaluated according to criteria and procedures established by the board of trustees in accordance with general guidelines approved by the state board of education. Except as otherwise provided, that person shall have the right to automatic renewal of contract by giving notice, in writing, of acceptance of renewal. Such notice shall be given to the board of trustees of the school district then employing such person not later than the first day of June preceding the expiration of the term of the current contract. Except as otherwise provided by this paragraph, the board of trustees shall notify each person entitled to be employed on a renewable contract of the requirement that such person must give the notice hereinabove and that failure to do so may be interpreted by the board as a declination of the right to automatic renewal or the offer of another contract. Such notification shall be made, in writing, not later than the fifteenth day of May, in each year, except to those persons to whom the board, prior to said date, has sent proposed contracts for the next ensuing year, or to whom the board has given the notice required by this section.

(3) Any contract automatically renewed under the provisions of this section shall be for the same length as the term stated in the current contract and at a salary no lower than that specified therein, to which shall be added such increments as may be determined by the statutory or regulatory rights of such employee by reason of training, service, or performance, except where a board of trustees has declared a financial emergency pursuant to section 33-522, Idaho Code.

(4) Nothing in this section shall prevent the board of trustees from offering a renewed contract increasing the salary of any certificated person, or from reassigning an administrative employee to a nonadministrative position with appropriate reduction of salary from the preexisting salary level. In the event the board of trustees reassigns an administrative employee to a nonadministrative position, the board shall give written notice to the employee which contains a statement of the reasons for the reassignment. The employee, upon written request to the board, shall be entitled to an informal review of that decision. The process and procedure for the informal review shall be determined by the local board of trustees.

(5) Before a board of trustees can determine not to renew for reasons of an unsatisfactory report of the performance of any certificated person whose contract would otherwise be automatically renewed, or to renew the contract of any such person at a reduced salary, such person shall be entitled to a reasonable period of probation. This period of probation shall be preceded by a written notice from the board of trustees with reasons for such probationary period and with provisions for adequate supervision and evaluation of the person's performance during the probationary period. Such period of probation shall not affect the person's renewable contract status. Consideration of probationary status for certificated personnel is consideration of the status of an employee within the meaning of section 67-2345, Idaho Code, and may be held in executive session. If the consideration results in probationary status, the individual on probation shall not be named in the minutes of the meeting. A record of the decision shall be placed in the teacher's personnel file.



(6) If the board of trustees takes action to immediately discharge or discharge upon termination of the current contract a certificated person whose contract would otherwise be automatically renewed, or to renew the contract of any such person at a reduced salary, the action of the board shall be consistent with the procedures specified in section 33-513 5., Idaho Code, and furthermore, the board shall notify the employee in writing whether there is just and reasonable cause not to renew the contract or to reduce the salary of the affected employee, and if so, what reasons it relied upon in that determination.

(7) If the board of trustees takes action after the declaration of a financial emergency pursuant to section 33-522, Idaho Code, and such action is directed at more than one (1) certificated employee and, if mutually agreed to by both parties, a single informal review shall be conducted. Without mutual consent of both parties, the board of trustees shall use the following procedure to conduct a single due process hearing within sixty-seven (67) days of the declaration of financial emergency pursuant to section 33-522 (2), Idaho Code, or on or before June 22, whichever shall occur first:

(a) The superintendent or any other duly authorized administrative officer of the school district may recommend the change in the length of the term stated in the current contract or reduce the salary of any certificated employee by filing with the board of trustees written notice specifying the purported reasons for such changes.

(b) Upon receipt of such notice, the board of trustees, acting through its duly authorized administrative official, shall give the affected employees written notice of the reductions and the recommendation of the change in the length of the term stated in the current contract or the reduction of salary, along with written notice of a hearing before the board of trustees prior to any determination by the board of trustees.

(c) The hearing shall be scheduled to take place not less than six (6) days nor more than fourteen (14) days after receipt of the notice by the employees. The date provided for the hearing may be changed by mutual consent.

(d) The hearing shall be open to the public.

(e) All testimony at the hearing shall be given under oath or affirmation. Any member of the board, or the clerk of the board of trustees, may administer oaths to witnesses or affirmations by witnesses.

(f) The employees may be represented by legal counsel and/or by a representative of a local or state education association.

(g) The chairman of the board of trustees or the designee of the chairman shall conduct the hearing.

(h) The board of trustees shall cause an electronic record of the hearing to be made or shall employ a competent reporter to take stenographic or stenotype notes of all the testimony at the hearing. A transcript of the hearing shall be provided at cost by the board of trustees upon request of the employee.

(i) At the hearing the superintendent or other duly authorized administrative officer shall present evidence to substantiate the reduction contained in such notice.

(j) The employees may produce evidence to refute the reduction. Any witness presented by the superintendent or by the employees shall be subject to cross-examination. The board of trustees may also examine witnesses and be represented by counsel.

(k) The affected employees may file written briefs and arguments with the board of trustees within three (3) days after the close of the hearing or such other time as may be agreed upon by the affected employees and the board of trustees.

(1) Within seven (7) days following the close of the hearing, the board of trustees shall determine and, acting through its duly authorized administrative official, shall notify the employees in writing whether the evidence presented at the hearing established the need for the action taken.

The due process hearing pursuant to this subsection (7) shall not be required if the board of trustees and the local education association reach an agreement on issues agreed upon pursuant to section 33-522 (3), Idaho Code.

(8) If the board of trustees, for reasons other than unsatisfactory service, for the ensuing contract year, determines to change the length of the term stated in the current contract, reduce the salary or not renew the contract of a certificated person whose contract would otherwise be automatically renewed, nothing herein shall require a probationary period.

SECTION 15. The provisions of Sections 2, 9 and 10 of this act shall be in full force and effect on and after July 1, 2019. The provisions of Section 5 of this act shall be null, void and of no force and effect on and after June 30, 2020. The provisions of Section 6 of this act shall be in full force and effect on and after July 1, 2020.

Approved April 2, 2015

#### CHAPTER 230

(H.B. No. 17, As Amended in the Senate)

#### AN ACT

RELATING TO AUTOCYCLES; AMENDING SECTION 49-102, IDAHO CODE, TO DEFINE A TERM; AMENDING SECTIONS 49-301 AND 49-304, IDAHO CODE, TO PROVIDE AN EXEMPTION RELATING TO MOTORCYCLE ENDORSEMENTS FOR AUTOCYCLES; AMENDING SECTION 49-666, IDAHO CODE, TO PROVIDE AN EXEMPTION RELATING TO HELMETS FOR COMPLETELY ENCLOSED AUTOCYCLES; AMENDING CHAPTER 24, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-2448, IDAHO CODE, TO PROVIDE THAT CERTAIN PROVISIONS OF LAW RELATING TO MOTORCYCLE PLATE, TAG, REGISTRATION AND INSURANCE REQUIREMENTS SHALL APPLY TO AUTOCYCLES AND TO REQUIRE COMPLIANCE WITH SPECIFIED DRIVER'S LICENSE PROVISIONS RELATING TO PERSONS OPERATING AUTOCYCLES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 49-102, Idaho Code, be, and the same is hereby amended to read as follows:

49-102. DEFINITIONS -- A. (1) "Abandon" means to leave a vehicle on private property without the permission of the person having rights to the possession of the property, or on a highway or other property open to the public for the purposes of vehicular traffic or parking, or upon or within the right-of-way of any highway, for twenty-four (24) hours or longer.

(2) "Abandoned vehicle" means any vehicle observed by an authorized officer or reported by a member of the public to have been left within the limits of any highway or upon the property of another without the consent of the property owner for a period of twenty-four (24) hours or longer, except that a vehicle shall not be considered abandoned if its owner-operator is unable to remove it from the place where it is located and has notified a law enforcement agency and requested assistance.

(3) "Accident" means any event that results in an unintended injury or property damage attributable directly or indirectly to the motion of a motor vehicle or its load, a snowmobile or special mobile equipment.

(4) "Actual physical control" means being in the driver's position of a motor vehicle with the motor running or the vehicle moving.

(5) "Administrator" means the federal highway administrator, the chief executive of the federal highway administration, an agency within the U.S. department of transportation.

(6) "Age of a motor vehicle" means the age determined by subtracting the manufacturer's year designation of the vehicle from the year in which the designated registration fee is paid. If the vehicle has the same manufacturer's year designation as the year in which the fee is paid, or if a vehicle has a manufacturer's year designation later than the year in which the fee is paid, the vehicle shall be deemed to be one (1) year old.

(7) "Air-conditioning equipment" means mechanical vapor compression refrigeration equipment which is used to cool the driver's or passenger compartment of any motor vehicle.

(8) "Alcohol or alcoholic beverage" means:

(a) Beer as defined in 26 U.S.C. section 5052(a), of the Internal Revenue Code;

(b) Wine of not less than one-half of one percent (.005%) of alcohol by volume; or

(c) Distilled spirits as defined in section 5002(a)(8), of the Internal Revenue Code.

(9) "Alley" means a public way of limited use intended only to provide access to the rear or side of lots or buildings in urban districts.

(10) "All-terrain vehicle" or "ATV" means an all-terrain vehicle or ATV as defined in section 67-7101, Idaho Code.

(11) "Amateur radio operator." (See "Radio operator, amateur," section 49-119, Idaho Code)

(12) "Ambulance" means a motor vehicle designed and used primarily for the transportation of injured, sick, or deceased persons, on stretchers, cots, beds, or other devices for carrying persons in a prone position.

(13) "Applicant" means an individual who applies to obtain, transfer, upgrade, or renew a driver's license.

(14) "Approved driver training course" means a training course from a school licensed under the provisions of chapter 21 of this title or a driver training course approved by another United States jurisdiction provided the course was taken while an individual was a resident of that United States jurisdiction.

(15) "Approved testing agency" means a person, firm, association, partnership or corporation approved by the director of the Idaho state police which is:

(a) In the business of testing equipment and systems;

(b) Recognized by the director as being qualified and equipped to do experimental testing; and

(c) Not under the jurisdiction or control of any single manufacturer or supplier for an affected industry.

(16) "Armed forces" means the army, navy, marine corps, coast guard and the air force of the United States.

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

(18) "Authorized officer" means any member of the Idaho state police, or any regularly employed and salaried deputy sheriff, or other county employee designated to perform the function of removing abandoned vehicles or junk vehicles by the board of county commissioners of the county in which a vehicle is located, or any regularly employed and salaried city peace officer or other city employee designated to perform the function of removing abandoned vehicles or junk vehicles by the city council, or a qualified person deputized or appointed by the proper authority as reserve deputy sheriff or city policeman, authorized within the jurisdiction in which the abandoned vehicle or junk vehicle is located.

(19) "Authorized transportation department employee" means any employee appointed by the board to perform duties relating to enforcement of vehicle laws as have been specifically defined and approved by order of the board (see section 40-510, Idaho Code).

(20) "Auto transporter" means a vehicle combination constructed for the purpose of transporting vehicles.

(21) "Autocycle" means a motor vehicle designed to travel on not more than three (3) wheels in contact with the ground that has a steering wheel and seating that does not require the operator to straddle or sit astride.

SECTION 2. That Section 49-301, Idaho Code, be, and the same is hereby amended to read as follows:

49-301. DRIVERS TO BE LICENSED. (1) No person, except those expressly exempted by the provisions of this chapter, shall drive any motor vehicle upon a highway unless the person has a current and valid Idaho driver's license. Provided however, that those persons holding a restricted school attendance driving permit may drive upon a highway pursuant to the restrictions set forth in section 49-307A, Idaho Code.

(2) No person shall operate a motorcycle upon a highway unless he has a motorcycle endorsement on his valid driver's license. The provisions of this subsection shall not apply to persons operating autocycles.

(3) No person shall operate a motor vehicle in violation of any valid restriction identified on, or attached to, his valid driver's license.

(4) No person shall receive a class D driver's license unless and until he surrenders to the department all driver's licenses in his possession issued to him by Idaho or any other jurisdiction for use within the United States, or any identification cards issued by any other jurisdiction within the United States, or until he executes an affidavit that he does not possess a driver's license or any identification cards.

(5) No person shall be permitted to have more than one (1) driver's license issued for use within the United States at any time.

(6) No person shall operate a commercial motor vehicle as defined in section 49-123, Idaho Code, upon a highway:

(a) Without obtaining a commercial driver's license.

(b) Without having the appropriate class A, B or C commercial driver's license in the operator's possession.

(c) Without the proper license class of commercial driver's license or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported.

(d) Unless the operator has a seasonal or class A, B or C driver's license with required endorsements in his possession.

(e) Without having a current and valid medical examiner's certificate on file with the department while operating in a "non-excepted" status as required by the federal motor carrier safety administration. Medical examiner's certificates submitted for filing must be legible and shall be submitted in a manner acceptable to the department. If the federal motor carrier safety administration has issued a medical exemption letter or skill performance evaluation certificate, the driver must have the current and valid documentation in physical possession and available upon request to a duly authorized federal, state or local enforcement official.

(7) Any holder of a class A, B or C commercial driver's license issued by a jurisdiction other than Idaho shall apply for an Idaho-issued commercial driver's license within thirty (30) days of establishing a domicile in Idaho. In accordance with the federal motor carrier safety regulations, no person shall receive a class A, B or C driver's license unless and until he surrenders to the department all driver's licenses in his possession issued to him by Idaho or any other jurisdiction.

(8) Except as provided in section 49-304, Idaho Code, a violation of this section is a misdemeanor.

SECTION 3. That Section 49-304, Idaho Code, be, and the same is hereby amended to read as follows:

49-304. MOTORCYCLE ENDORSEMENT. The department shall issue a motorcycle "M" endorsement on a driver's license to applicants who complete the requirements to operate a motorcycle.

(1) No person may operate a motorcycle upon a highway without a motorcycle "M" endorsement on a valid driver's license.

(2) Any person who applies for a driver's license or renewal of a license may also apply for a motorcycle "M" endorsement. The requirements for obtaining a motorcycle "M" endorsement are:

(a) The applicant shall be tested by written examination for his knowledge of safe motorcycle operating practices and traffic laws specific to the operation of motorcycles upon payment of the fee specified in section 49-306, Idaho Code.

(b) Upon successful completion of the knowledge test and upon payment of the fee required for an "M" endorsement, the applicant shall obtain a motorcycle "M" endorsement on his driver's license.

(3) No person under the age of twenty-one (21) years may apply for or obtain a motorcycle "M" endorsement on his driver's license unless he has successfully completed a motorcycle rider training course approved under the provisions of chapter 49, title 33, Idaho Code, in addition to satisfying the requirements specified in subsection (2) of this section. The provisions of this subsection shall not be effective unless and until the motorcycle rider training course is fully implemented by the division of professional-technical education.

(4) Any person who applies for a motorcycle endorsement on a driver's license, in addition to the requirements specified in subsection (2) of this section, may also be required to pass the motorcycle "M" skills test before he can obtain the motorcycle "M" endorsement.

(5) The operation of a motorcycle upon a highway by any person who has failed to obtain a motorcycle "M" endorsement as provided in this section shall constitute an infraction.

(6) The provisions of this section shall not apply to persons operating autocycles.

SECTION 4. That Section 49-666, Idaho Code, be, and the same is hereby amended to read as follows:

49-666. MOTORCYCLE, MOTORBIKE, UTV AND ATV SAFETY HELMETS -- REQUIREMENTS AND STANDARDS. No person under eighteen (18) years of age shall ride upon or be permitted to operate a motorcycle, motorbike, utility type vehicle or an all-terrain vehicle unless at all times when so operating or riding upon the vehicle he is wearing, as part of his motorcycle, motorbike, UTV or ATV equipment, a protective safety helmet of a type and quality equal to or better than the standards established for helmets by the director, except the provisions of this section shall not apply when such vehicles are operated or ridden on private property, or when used as an implement of husbandry, and shall also not apply to completely enclosed autocycles.

SECTION 5. That Chapter 24, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-2448, Idaho Code, and to read as follows:

49-2448. AUTOCYCLES. (1) The following provisions of law shall apply to autocycles:

(a) Motorcycle plate and registration tag requirements;

(b) Motorcycle registration requirements. Certification from the national highway traffic safety administration and a manufacturer's certificate of origin stating that the vehicle meets the federal specifications for a motorcycle shall be required for all autocycles prior to registration;

(c) Motorcycle insurance requirements.

(2) All persons operating autocycles shall be in compliance with the provisions of section 49-301, Idaho Code.

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 April 3, 2015

CHAPTER 231  
(H.B. No. 112)

AN ACT

RELATING TO ELECTION CAMPAIGN CONTRIBUTIONS AND EXPENDITURES; AMENDING SECTION 67-6607, IDAHO CODE, TO REVISE PROVISIONS RELATING TO NOTIFICATION OF CERTAIN CONTRIBUTIONS.

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

SECTION 1. That Section 67-6607, Idaho Code, be, and the same is hereby amended to read as follows:

67-6607. REPORTS OF CONTRIBUTIONS AND EXPENDITURES. (a) The political treasurer for each candidate and the political treasurer of each political committee shall file with the secretary of state:

(1) Not more than fourteen (14) days and not less than seven (7) days before the date of a primary election in which the candidate or political committee is involved, a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the candidate or political committee prior to the fifteenth day before the primary election;

(2) Not more than thirty (30) days after the date of a primary election in which a candidate or a political committee is involved, a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the candidate or political committee to cover the period since the fifteenth day before the primary election to and including the tenth day after the primary election;

(3) For all political committees supporting or opposing measures, a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the measure or any candidate or made by or against the measure or any candidate shall be filed on the same dates provided in paragraphs (1), (2), (4), (5) and (6) of this subsection;

(4) Not later than October 10 immediately preceding a general election in which the candidate or political committee is involved, a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the candidate or political committee since and including the eleventh day after the date of the primary election and to and including September 30;

(5) Not more than fourteen (14) days and not less than seven (7) days before the date of a general election in which the candidate or political committee is involved, a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the candidate or political committee since and including October 1 and to and including the sixteenth day before the general election, together with a cumulative statement showing all such contributions and expenditures or encumbrances to and including the sixteenth day before the general election; and

(6) Not more than thirty (30) days after the date of a general election in which the candidate or political committee is involved, a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the candidate or political committee to cover the period since the fifteenth day before the general election to and including the tenth day after the general election.

(b) For the first report under this section the reporting period shall cover the period beginning with the first contribution, expenditure, or encumbrance.

(c) Notwithstanding any other reports required under this section, the political treasurer for each candidate and any political committee ~~supporting or opposing a measure~~ shall notify the secretary of state, in writing, of any contribution of one thousand dollars (\$1,000) or more, received by the political treasurer after the sixteenth day before, but more than forty-eight (48) hours before, any primary or general election. This notification shall be made within forty-eight (48) hours after the receipt of such contribution and shall include the name of the candidate, political committee or measure, the identification of the contributor, and the date of receipt and amount of the contribution. The notification shall be in addition to the reporting of these contributions in the postelection report.

(d) For all reports required pursuant to this section the secretary of state shall accept the date of a postmark as the date of receipt except for the seven (7) day preelection reports which must be received by no later than 5:00 p.m. on the seventh day preceding the primary or general election.

(e) Any reports required to be filed under the provisions of this section may also be filed by means of an electronic facsimile transmission machine and may be filed by other electronic means as approved by the secretary of state.

Approved April 3, 2015

## CHAPTER 232

(H.B. No. 157, As Amended in the Senate)

## AN ACT

RELATING TO THE IDAHO STATE POLICE; AMENDING SECTION 67-2901, IDAHO CODE, TO AUTHORIZE THE IDAHO STATE POLICE TO CONTRACT WITH PRIVATE ENTITIES UNDER CERTAIN CONDITIONS WHEN NECESSARY FOR PUBLIC SAFETY AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-2901, Idaho Code, be, and the same is hereby amended to read as follows:

67-2901. IDAHO STATE POLICE CREATED -- DIRECTOR -- DIVISIONS -- POWERS AND DUTIES -- FAILURE OF PEACE OFFICERS TO OBEY ORDERS, MISDEMEANOR -- DEPUTIES -- COMPENSATION AND POWERS. (1) There is hereby created the Idaho state police. The Idaho state police 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 governor, with the advice and consent of the senate, shall appoint a director of the Idaho state police who shall serve at the pleasure of the governor. The director shall receive such salary as fixed by the governor.

(3) The Idaho state police shall be composed of such divisions as may be established by law and other 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 state police. The director shall appoint, subject to the approval of the governor, an administrator for each division within the state police.

(4) The director shall exercise all of the powers and duties necessary to carry out the proper administration of the state police, and may delegate duties to employees and officers of the state police.

(5) The Idaho state police shall have power to:

(a) Enforce all of the penal and regulatory laws of the state, to preserve order, and exercise any and all powers, duties and authority of any sheriff or other peace officer anywhere in the state of Idaho, in the same manner and with like authority as the sheriffs of the counties; said department may employ from time to time, to carry out any of the provisions of this subsection, such deputies or special deputies as may be deemed, by the governor of the state of Idaho, necessary to carry out these duties and powers, and deputies shall have power to deputize other persons as deputies when necessary; said department may call into the police service of the state any and all peace officers of the state, of any city, or of any county, and may deputize private citizens, when deemed necessary by the governor of the state, to preserve order and enforce law in any extraordinary emergency when the governor shall have declared, by order in writing, the existence of such extraordinary emergency; the governor shall designate by order such peace officers or private persons as are to be called into the service of the state, and when such peace officers or deputized citizens are so called into the police service of the state such officers shall act under the direction of the director of the state police in such manner as may be directed and ordered by the governor; failure on the part of any such peace officer of the state, or person so deputized, to so act and obey such orders shall constitute a misdemeanor; the governor shall fix the compensation of such deputies;



- (b) Prevent and detect crime and apprehend criminals and maintain order;
  - (c) Require all persons using the highways in the state to do so carefully, safely, and with the exercise of care for the persons, property and safety of others;
  - (d) Safeguard and protect the surface and other physical portions of the state highways and enforce any laws for highway safety;
  - (e) Enforce federal statutes and regulations relating to motor carrier safety and hazardous materials for interstate carriers;
  - (f) Enforce Idaho statutes and rules of the Idaho state police applicable to motor carriers;
  - (g) Enforce all of the laws of the state enacted for the identification, inspection and transportation of livestock and all laws of the state designed to prevent the theft of livestock;
  - (h) Regulate traffic on all highways and roads in the state;
  - (i) Perform all of the duties and exercise all of the powers of peace officers vested in the director of the Idaho state police;
  - (j) Execute and serve any warrant of arrest or search warrant issued by proper authority of the state, according to the tenor thereof, in any part of the state;
  - (k) Arrest without warrant, any person committing or attempting to commit in their presence or view a breach of the peace or any other violation of any of the laws of the state;
  - (l) Members of the Idaho state police shall be subject to the call of the governor and are empowered to cooperate with any other department or authority of the state, with counties and municipalities, or any locality in detecting crime, apprehending criminals and preserving law and order throughout the state; but the Idaho state police shall not be used as a posse in any municipality, except when ordered by the governor to do so; provided nothing herein contained shall be construed to vest direction or control over any sheriff, policeman, marshal or constable in the Idaho state police or any employer or officer thereof;
  - (m) Each member of the Idaho state police shall take and subscribe to an oath of office to support the constitution and laws of the United States and the state of Idaho, and to honestly and faithfully perform the duties imposed upon him under the provisions of the laws of Idaho as a member of the Idaho state police. The oath shall be filed with the director; and
  - (n) Enter into contractual agreements to reimburse the Idaho state police for services provided to private entities if it is deemed necessary to enforce the law or ensure public safety when those services or resources are beyond the usual and customary services provided by the Idaho state police.
- (6) The director shall operate and supervise a forensic laboratory which will provide to state and local agencies having responsibility for enforcement of the penal laws of this state assistance in the collection, preservation and analysis of evidence in criminal cases. Idaho state police forensic services resources including, but not limited to, equipment, instrumentation, facilities and supplies may be used only by authorized employees or approved subcontractors of Idaho state police forensic services.
- (7) The director shall provide security and protection for the governor and the governor's immediate family to the extent and in the manner the governor and the director deem adequate and appropriate.
- (8) At the written direction of the governor or the director, the director shall provide security and protection for the lieutenant governor and the lieutenant governor's immediate family to the extent and in the manner the lieutenant governor and the director deem adequate and appropriate.

(9) The director shall provide security and protection for both houses of the legislature while in session as in the opinion of the speaker of the house of representatives and the president pro tempore of the senate and the director deem necessary.

(10) The director shall provide security and protection for the supreme court and the court of appeals while they are in session, and at their places of work, as the chief justice and the director deem necessary.

(11) The director may award to an officer, upon retirement, that officer's badge, duty weapon and handcuffs, providing that a committee of three (3) of the officer's peers certifies to the director that the retiring officer has served meritoriously for a minimum of fifteen (15) years and should therefore be so honored.

(12) The director, within the limits of any appropriation made available for such purposes, shall for such Idaho state police:

(a) Establish such ranks, grades and positions as shall appear advisable and designate the authority and responsibility in each such rank, grade and position;

(b) Appoint such personnel to such rank, grade and position as are deemed by him to be necessary for the efficient operation and administration of the Idaho state police, and only those applicants shall be appointed or promoted who best meet the prescribed standards and prerequisites; provided however, that all employees shall be selected in the manner provided for in chapter 53, title 67, Idaho Code, and shall be probationers and on probation for a period of one (1) year from the date of appointment;

(c) Formulate and place in effect such rules for the Idaho state police as from time to time appear to him advisable;

(d) Prescribe by official order the uniform and equipment of the employees in the Idaho state police;

(e) Station employees in such localities as he shall deem advisable for the enforcement of the laws of the state;

(f) Have purchased, or otherwise acquired, by the purchasing agent of the state, motor vehicle equipment and all other equipment and commodities deemed by him essential for the efficient performance of the duties of the Idaho state police and purchase and install approved mechanical devices and equipment for the rapid transmission and broadcasting of information relative to crime, apprehension of criminals and the administration of the business of the Idaho state police.

(13) (a) The director shall issue to every eligible police officer member of the Idaho state police, as defined in section 59-1303(3), Idaho Code, and pursuant to the contract provided for by the personnel group insurance administrator in the department of administration, a term group life insurance certificate in the face amount of fifty thousand dollars (\$50,000) on the life of such members. Said insurance certificate shall set forth the name or names of such beneficiary or beneficiaries as the insured may name or designate.

(b) Any eligible person entering the employ of the Idaho state police as an active police officer after the effective date of this act shall be insured as other members of the state police immediately upon taking the oath of office.

(c) Every member of the Idaho state police, upon termination of active duty or permanent release, may surrender said certificate to the head of the state police, or, at the person's option, may convert the insurance in accordance with the provisions of the contract, and no further premiums shall be paid on said policy by the state of Idaho.

(d) The director is hereby directed to hereafter include in the budget of the Idaho state police an amount sufficient to pay the annual costs accruing with respect to policies of insurance purchased under the provisions of this chapter.

(e) The premiums on the insurance herein provided for are to be paid one-half (1/2) by the employee and one-half (1/2) by the state. The director is hereby authorized to make a monthly deduction on the payroll of the amount due from each employee under this chapter.

(14) Nothing in this section shall affect the duties of the sheriff as described in section 31-2202, Idaho Code, or the primary duty, described in section 31-2227, Idaho Code, of the sheriff and prosecuting attorney of each of the several counties to enforce all the penal provisions of any and all statutes of this state.

Approved April 3, 2015

CHAPTER 233  
(H.B. No. 238)

AN ACT

RELATING TO ELECTRICAL CONTRACTORS AND JOURNEYMEN; AMENDING SECTION 54-1016, IDAHO CODE, TO PROVIDE AN EXEMPTION FOR CERTAIN EQUIPMENT.

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

SECTION 1. That Section 54-1016, Idaho Code, be, and the same is hereby amended to read as follows:

54-1016. EXEMPTIONS. (1) Nothing in this chapter shall be deemed to apply to:

(a) Any regulated utility, telephone company, rural telephone cooperative or municipal communications utility, or its employees, in the installation or maintenance of communication circuits, wires and apparatus by or for such entities or their communications service customers;

(b) Any electrical public utility, or its employees, in the installation and maintenance of electrical wiring, circuits, apparatus and equipment by or for such public utility, or comprising a part of its plants, lines or system;

(c) Modular buildings as defined in section 39-4301, Idaho Code, that are constructed in the state of Idaho for installation on building sites outside the state; provided however, that no modular building shall be installed on a building site in the state of Idaho until it has been approved and bears the insignia of approval of the division as being in compliance with the requirements set forth in section 39-4304, Idaho Code.

(2) The licensing provisions of this chapter shall not apply to:

(a) Any property owner performing electrical work in the owner's primary or secondary residence or associated outbuildings;

(b) Any person regularly employed as a maintenance electrician performing electrical maintenance work on the premises of the person's employer;

(c) Any telephone company, rural telephone cooperative, or municipal communications utility, its employees, its subsidiaries, and employees of the subsidiaries performing work on customer-owned facilities under the exclusive control of the telephone company, rural telephone cooperative, or municipal communications utility;

(d) Any telephone company, rural telephone cooperative, or municipal communications utility, its employees, its subsidiaries, and employees of the subsidiaries performing repair work on customer-owned facilities at the request of the customer;

(e) Any electrical public utility, rural electrical cooperative, municipal power utility, its employees, its subsidiaries, and employees

of the subsidiaries performing work on customer-owned facilities under the exclusive control of the electrical public utility, rural electrical cooperative, or municipal power utility; and

(f) Any electrical public utility, rural electrical cooperative, municipal power utility, its employees, its subsidiaries, and employees of the subsidiaries performing emergency repair work on customer-owned facilities at the request of the customer.

(3) The licensing provisions of this chapter shall not apply to individuals licensed pursuant to chapter 50, title 54, Idaho Code, or certified pursuant to chapter 26, title 54, Idaho Code, as follows:

(a) Individuals holding a current heating, ventilation and air conditioning (HVAC) license or a current plumbing certification may install electrical circuitry from the disconnecting means to a water heater and electrical connections to the water heater as long as the disconnect is in sight from the unit and the circuit from the disconnecting means to the water heater is no more than fifty (50) feet long.

(b) Individuals holding a current HVAC license may install:

(i) Electrical space heaters with no attached ductwork;

(ii) Electrical connections to HVAC equipment from the disconnecting means to the unit as long as the disconnect is in sight from the unit and the circuit from the disconnecting means to the HVAC equipment is no more than fifty (50) feet long; and

(iii) Ventilating fans, except ducted range hoods in residences.

(c) HVAC licensees may install control wiring of twenty-four (24) volt or less for HVAC equipment of five (5) tons or less in capacity. Plumbing certificate holders are not authorized to install control wiring in HVAC equipment, regardless of voltage.

(4) To the extent that a plumbing or HVAC installation permit issued by the Idaho division of building safety includes any part of an electrical installation, the permit issued and inspection performed shall be sufficient to satisfy the permitting and inspecting requirements of this chapter if all required permit fees have been paid.

(5) Approval and certification requirements of product and equipment as set forth in this chapter and in the adopted edition of the national electrical code do not apply to industrial equipment unless the board has made a determination that such product, machine or classes of products and machines present an undue hazard to life and property.

Approved April 3, 2015

CHAPTER 234  
(H.B. No. 281)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE PUBLIC HEALTH SERVICES DIVISION FOR FISCAL YEAR 2016; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING FOR GENERAL FUND TRANSFERS TO THE COOPERATIVE WELFARE FUND; DIRECTING EXPENDITURES FOR TRUSTEE AND BENEFIT PAYMENTS; PROVIDING LEGISLATIVE INTENT FOR PROGRAM INTEGRITY; PROVIDING LEGISLATIVE INTENT REGARDING TRICARE VACCINES; AND REPORTING ON ACCREDITATION PROCESS.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare, for the Public Health Services Division the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>I. PHYSICAL HEALTH SERVICES:</b>					
FROM:					
Cooperative Welfare (General)					
Fund	\$1,448,100	\$2,121,800		\$1,084,600	\$4,654,500
Idaho Immunization Dedicated Vaccine					
Fund		18,970,000			18,970,000
Cancer Control					
Fund	53,900	205,000		82,600	341,500
Central Tumor Registry					
Fund				135,000	135,000
Cooperative Welfare (Dedicated)					
Fund	1,819,200	3,861,700		10,056,200	15,737,100
Cooperative Welfare (Federal)					
Fund	<u>6,599,400</u>	<u>8,079,600</u>		<u>39,754,300</u>	<u>54,433,300</u>
TOTAL	\$9,920,600	\$33,238,100		\$51,112,700	\$94,271,400
<b>II. EMERGENCY MEDICAL SERVICES:</b>					
FROM:					
Cooperative Welfare (General)					
Fund	\$99,400				\$99,400
Emergency Medical Services					
Fund	1,617,500	\$918,900		\$220,000	2,756,400
Emergency Medical Services III					
Fund				1,400,000	1,400,000
TSE Registry					
Fund		225,800			225,800
Cooperative Welfare (Dedicated)					
Fund	459,300	341,300			800,600
Cooperative Welfare (Federal)					
Fund	<u>760,800</u>	<u>1,024,300</u>		<u>4,314,200</u>	<u>6,099,300</u>
TOTAL	\$2,937,000	\$2,510,300		\$5,934,200	\$11,381,500
<b>III. LABORATORY SERVICES:</b>					
FROM:					
Cooperative Welfare (General)					
Fund	\$1,613,000	\$381,800	\$39,000		\$2,033,800
Cooperative Welfare (Dedicated)					
Fund	443,600	199,300			642,900
Cooperative Welfare (Federal)					
Fund	<u>1,091,000</u>	<u>939,300</u>	<u>0</u>		<u>2,030,300</u>
TOTAL	\$3,147,600	\$1,520,400	\$39,000		\$4,707,000
GRAND TOTAL	\$16,005,200	\$37,268,800	\$39,000	\$57,046,900	\$110,359,900

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, each of the programs in the Department of Health and Welfare listed below is authorized no more than the number of full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Physical Health Services .....	139.33
Emergency Medical Services .....	42.17
Laboratory Services .....	40.00

SECTION 3. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 4. TRUSTEE AND BENEFIT PAYMENTS. Notwithstanding the provisions of Section 67-3511, Idaho Code, funds budgeted in the trustee and benefit payments expenditure class shall not be transferred to any other expense class during fiscal year 2016.

SECTION 5. PROGRAM INTEGRITY. Notwithstanding any other provisions of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources appropriated for each budgeted program.

SECTION 6. LEGISLATIVE INTENT REGARDING TRICARE VACCINES. The Legislature continues to recognize the potential gap in coverage created by TRICARE's refusal to participate in the Idaho Immunization Program. The Legislature continues to support and encourage the executive branch in its efforts to negotiate a solution with TRICARE that does not rely on General Fund support. Further, it is the intent of the Legislature that moneys appropriated to purchase TRICARE vaccinations are to be used solely for that purpose and any moneys not expended for TRICARE vaccines are to be reverted back to the General Fund at the close of the fiscal year or as soon thereafter as is practicable.

SECTION 7. REPORT ON ACCREDITATION STATUS. It is the intent of the Legislature that the Department of Health and Welfare, Division of Public Health Services, provide an annual report to the Legislative Services Office and the Division of Financial Management, on the status of becoming an accredited state agency. The format of the report, and the information included therein, shall be determined by the Legislative Services Office and the Division of Financial Management. The report shall be submitted no later than December 31, 2015.

Approved April 3, 2015

CHAPTER 235  
(H.B. No. 282)

AN ACT

APPROPRIATING MONEYS TO THE CATASTROPHIC HEALTH CARE PROGRAM AND DIRECTING A TRANSFER FOR FISCAL YEAR 2016; AND PROVIDING GUIDANCE ON GENERAL FUND REVERSIONS.

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

SECTION 1. There is hereby appropriated to the Catastrophic Health Care Program \$27,000,000 from the General Fund to be transferred to the Catastrophic Health Care Cost Fund for the period July 1, 2015, through June 30, 2016.

SECTION 2. GENERAL FUND REVERSIONS. It is the intent of the Legislature that any unexpended and unencumbered General Funds that were transferred to the Catastrophic Health Care Cost Fund be reverted back to the state General Fund on June 30, 2015, or as soon thereafter as is practicable. All funds received by the Catastrophic Health Care Program in the Catastrophic Health Care Cost Fund, which includes receipts, refunds and reimbursements as provided for in Sections 31-3510A and 49-673, Idaho Code, are to remain in the Catastrophic Health Care Cost Fund and are to be used in lieu of General Funds pursuant to Section 57-813, Idaho Code.

Approved April 3, 2015

CHAPTER 236  
(H.B. No. 284)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 2016; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND EXPRESSING LEGISLATIVE INTENT REGARDING THE DISTRIBUTION OF MONEYS FOR THE SPECIAL ASSISTANT UNITED STATES ATTORNEY PROJECT.

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

SECTION 1. There is hereby appropriated to the Department of Correction, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR	FOR	FOR	FOR	TOTAL
	PERSONNEL	OPERATING	CAPITAL	TRUSTEE AND	
	COSTS	EXPENDITURES	OUTLAY	BENEFIT	
				PAYMENTS	
I. MANAGEMENT SERVICES:					
FROM:					
General					
Fund	\$8,765,100	\$3,268,300	\$1,026,400		\$13,059,800
Inmate Labor					
Fund	47,200				47,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Parolee Supervision					
Fund	189,300	92,300			281,600
Miscellaneous Revenue					
Fund	<u>427,100</u>	<u>96,400</u>	<u>0</u>		<u>523,500</u>
TOTAL	\$9,428,700	\$3,457,000	\$1,026,400		\$13,912,100

## II. PRISONS ADMINISTRATION:

## FROM:

## General

Fund	\$865,400	\$128,400			\$993,800
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## Inmate Labor

Fund	50,600				50,600
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## Miscellaneous Revenue

Fund	175,300	73,900			249,200
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## Penitentiary Endowment Income

Fund	<u>0</u>	<u>0</u>	<u>\$160,000</u>		<u>160,000</u>
TOTAL	\$1,091,300	\$202,300	\$160,000		\$1,453,600

## III. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:

## FROM:

## General

Fund	\$21,010,800	\$3,377,300	\$284,100		\$24,672,200
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## Inmate Labor

Fund		46,800			46,800
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## Miscellaneous Revenue

Fund	623,100	145,600			768,700
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## Penitentiary Endowment Income

Fund		1,004,200	240,800		1,245,000
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## Federal Grant

Fund	<u>154,500</u>	<u>0</u>	<u>0</u>		<u>154,500</u>
TOTAL	\$21,788,400	\$4,573,900	\$524,900		\$26,887,200

## IV. IDAHO CORRECTIONAL INSTITUTION - OROFINO:

## FROM:

## General

Fund	\$7,069,600	\$1,549,200	\$97,300		\$8,716,100
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## Inmate Labor

Fund	894,200	648,700	61,800		1,604,700
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## Miscellaneous Revenue

Fund	54,600	50,800			105,400
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	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>Penitentiary Endowment Income</b>					
Fund	<u>0</u>	<u>49,000</u>	<u>54,200</u>		<u>103,200</u>
TOTAL	\$8,018,400	\$2,297,700	\$213,300		\$10,529,400

## V. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:

## FROM:

## General

Fund	\$4,459,400	\$1,015,600	\$153,300		\$5,628,300
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## Inmate Labor

Fund		41,400			41,400
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## Miscellaneous Revenue

Fund	44,700	67,000			111,700
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## Penitentiary Endowment Income

Fund	<u>0</u>	<u>12,000</u>	<u>50,900</u>		<u>62,900</u>
TOTAL	\$4,504,100	\$1,136,000	\$204,200		\$5,844,300

## VI. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:

## FROM:

## General

Fund	\$5,726,000	\$1,551,300	\$306,300		\$7,583,600
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## Inmate Labor

Fund	1,112,700	530,800	48,000		1,691,500
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## Miscellaneous Revenue

Fund	110,800	73,300	17,900		202,000
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## Penitentiary Endowment Income

Fund	<u>0</u>	<u>21,000</u>	<u>40,200</u>		<u>61,200</u>
TOTAL	\$6,949,500	\$2,176,400	\$412,400		\$9,538,300

## VII. IDAHO MAXIMUM SECURITY INSTITUTION - BOISE:

## FROM:

## General

Fund	\$9,610,200	\$1,388,800	\$215,800		\$11,214,800
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## Inmate Labor

Fund		49,700			49,700
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## Miscellaneous Revenue

Fund	64,600	48,600			113,200
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## Penitentiary Endowment Income

Fund	<u>0</u>	<u>15,400</u>	<u>68,200</u>		<u>83,600</u>
TOTAL	\$9,674,800	\$1,502,500	\$284,000		\$11,461,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
VIII. ST. ANTHONY WORK CAMP:					
FROM:					
General					
Fund	\$2,154,200	\$395,900	\$30,200		\$2,580,300
Inmate Labor					
Fund	836,900	509,200	18,000		1,364,100
Miscellaneous Revenue					
Fund		8,300			8,300
Penitentiary Endowment Income					
Fund	<u>0</u>	<u>1,900</u>	<u>0</u>		<u>1,900</u>
TOTAL	\$2,991,100	\$915,300	\$48,200		\$3,954,600
IX. POCATELLO WOMEN'S CORRECTIONAL CENTER:					
FROM:					
General					
Fund	\$5,049,200	\$892,600	\$54,200		\$5,996,000
Inmate Labor					
Fund	279,100	73,300	21,900		374,300
Miscellaneous Revenue					
Fund	281,200	66,600	32,000		379,800
Penitentiary Endowment Income					
Fund	<u>0</u>	<u>26,900</u>	<u>39,600</u>		<u>66,500</u>
TOTAL	\$5,609,500	\$1,059,400	\$147,700		\$6,816,600
X. SOUTH BOISE WOMEN'S CORRECTIONAL CENTER:					
FROM:					
General					
Fund	\$3,018,700	\$530,100	\$23,800		\$3,572,600
Miscellaneous Revenue					
Fund		32,700			32,700
Penitentiary Endowment Income					
Fund	<u>0</u>	<u>7,800</u>	<u>28,000</u>		<u>35,800</u>
TOTAL	\$3,018,700	\$570,600	\$51,800		\$3,641,100
XI. IDAHO STATE CORRECTIONAL CENTER:					
FROM:					
General					
Fund	\$19,640,200	\$5,542,200	\$191,600		\$25,374,000
Miscellaneous Revenue					
Fund		341,400			341,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>Penitentiary Endowment Income</b>					
Fund	<u>0</u>	<u>0</u>	<u>161,500</u>		<u>161,500</u>
TOTAL	\$19,640,200	\$5,883,600	\$353,100		\$25,876,900
<b>XII. COUNTY &amp; OUT-OF-STATE PLACEMENT:</b>					
FROM:					
General					
Fund		\$15,233,300			\$15,233,300
<b>XIII. CORRECTIONAL ALTERNATIVE PLACEMENT:</b>					
FROM:					
General					
Fund		\$8,432,200	\$893,000		\$9,325,200
Miscellaneous Revenue					
Fund		<u>200,000</u>	<u>0</u>		<u>200,000</u>
TOTAL		\$8,632,200	\$893,000		\$9,525,200
<b>XIV. COMMUNITY SUPERVISION:</b>					
FROM:					
General					
Fund	\$14,511,300	\$1,474,300			\$15,985,600
Parolee Supervision					
Fund	4,548,000	1,353,200	\$375,500		6,276,700
Drug and Mental Health Court Supervision					
Fund	<u>433,900</u>	<u>27,200</u>	<u>0</u>		<u>461,100</u>
TOTAL	\$19,493,200	\$2,854,700	\$375,500		\$22,723,400
<b>XV. COMMUNITY WORK CENTERS:</b>					
FROM:					
General					
Fund	\$2,838,300	\$1,600			\$2,839,900
Inmate Labor					
Fund	701,700	1,158,000	\$192,200		2,051,900
Miscellaneous Revenue					
Fund		29,700			29,700
Federal Grant					
Fund	<u>61,700</u>	<u>0</u>	<u>0</u>		<u>61,700</u>
TOTAL	\$3,601,700	\$1,189,300	\$192,200		\$4,983,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
XVI. OFFENDER PROGRAMS:					
FROM:					
General					
Fund	\$1,658,500	\$852,600			\$2,511,100
Inmate Labor					
Fund		54,100			54,100
Miscellaneous Revenue					
Fund	362,200	59,500			421,700
Federal Grant					
Fund	<u>463,500</u>	<u>583,400</u>			<u>1,046,900</u>
TOTAL	\$2,484,200	\$1,549,600			\$4,033,800
XVII. COMMUNITY-BASED SUBSTANCE ABUSE TREATMENT:					
FROM:					
General					
Fund	\$1,555,400	\$130,300		\$6,286,300	\$7,972,000
XVIII. MEDICAL SERVICES:					
FROM:					
General					
Fund		\$41,641,700			\$41,641,700
Miscellaneous Revenue					
Fund		<u>135,000</u>			<u>135,000</u>
TOTAL		\$41,776,700			\$41,776,700
GRAND TOTAL	\$119,849,200	\$95,140,800	\$4,886,700	\$6,286,300	\$226,163,000

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Correction is authorized no more than one thousand nine hundred seventy-two and eighty-five hundredths (1,972.85) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. SPECIAL ASSISTANT UNITED STATES ATTORNEY PROJECT. Of the appropriation contained in Section 1 of this act for the Management Services Program, the distribution of \$70,000 from the General Fund for the Special Assistant United States Attorney Project is contingent upon the cities and counties of Northern and Eastern Idaho providing their share of funding for these positions per contractual agreement.

Approved April 3, 2015

CHAPTER 237  
(H.B. No. 287)

AN ACT

APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO FOR HEALTH EDUCATION PROGRAMS FOR FISCAL YEAR 2016; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; EXEMPTING APPROPRIATION OBJECT TRANSFER LIMITATIONS; AND PROVIDING NON-GENERAL FUND REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the State Board of Education and the Board of Regents of the University of Idaho for Health Education Programs, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. WASHINGTON-IDAHO VETERINARY EDUCATION:					
FROM:					
General					
Fund	\$551,900	\$1,331,700	\$32,000		\$1,915,600
Restricted					
Fund	<u>0</u>	<u>0</u>	<u>0</u>	<u>\$100,000</u>	<u>100,000</u>
TOTAL	\$551,900	\$1,331,700	\$32,000	\$100,000	\$2,015,600
II. WWAMI MEDICAL EDUCATION:					
FROM:					
General					
Fund	\$915,000	\$140,000		\$3,583,900	\$4,638,900
III. IDAHO DENTAL EDUCATION PROGRAM:					
FROM:					
General					
Fund	\$235,200			\$1,314,900	\$1,550,100
Unrestricted					
Fund	<u>172,200</u>	<u>\$25,800</u>	<u>\$5,500</u>	<u>0</u>	<u>203,500</u>
TOTAL	\$407,400	\$25,800	\$5,500	\$1,314,900	\$1,753,600
IV. UNIVERSITY OF UTAH MEDICAL EDUCATION:					
FROM:					
General					
Fund				\$1,356,000	\$1,356,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
V. FAMILY MEDICINE RESIDENCIES:					
FROM:					
General					
Fund	\$705,300	\$321,600		\$1,910,000	\$2,936,900
VI. BOISE INTERNAL MEDICINE RESIDENCY:					
FROM:					
General					
Fund				\$240,000	\$240,000
VII. PSYCHIATRY RESIDENCY:					
FROM:					
General					
Fund				\$157,800	\$157,800
GRAND TOTAL	\$2,579,600	\$1,819,100	\$37,500	\$8,662,600	\$13,098,800

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the State Board of Education and the Board of Regents of the University of Idaho for Health Education Programs is authorized no more than twenty-three and eight-tenths (23.8) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, 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 2016, the State Board of Education and the Board of Regents of the University of Idaho for Health Education Programs is hereby exempted from the provisions of Section 67-3511(1) and (3), Idaho Code, allowing unlimited transfers between object codes, for dedicated fund moneys appropriated to it for the period July 1, 2015, through June 30, 2016. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 4. NON-GENERAL FUND REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the State Board of Education for the Dental Education Program any unexpended and unencumbered balances of moneys categorized as dedicated funds as appropriated for fiscal year 2015, to be used for nonrecurring expenditures, for the period July 1, 2015, through June 30, 2016.

Approved April 3, 2015

CHAPTER 238  
(H.B. No. 288)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISIONS OF INDEPENDENT COUNCILS, INDIRECT SUPPORT SERVICES, HEALTHCARE POLICY INITIATIVES AND LICENSING AND CERTIFICATION FOR FISCAL YEAR 2016; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING FOR GENERAL FUND TRANSFERS TO THE COOPERATIVE WELFARE FUND; DIRECTING EXPENDITURES FOR TRUSTEE AND BENEFIT PAYMENTS; PROVIDING LEGISLATIVE INTENT FOR PROGRAM INTEGRITY; DIRECTING MONTHLY MEDICAID TRACKING REPORTS; DIRECTING REPORTING FOR THE MEDICAID PROGRAM INTEGRITY UNIT COLLECTIONS; DIRECTING PROGRAM TRANSFER REPORTS; REQUIRING A REPORT ON THE USE OF ADDITIONAL VOCA FUNDS; AND REQUIRING AN ANNUAL REPORT ON FACILITY LICENSING AND CERTIFICATION.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare, the following amounts to be expended according to the designated divisions, programs and expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. INDEPENDENT COUNCILS:					
A. DEVELOPMENTAL DISABILITIES COUNCIL:					
FROM:					
Cooperative Welfare (General)					
Fund	\$95,700	\$11,800			\$107,500
Cooperative Welfare (Dedicated)					
Fund		15,000			15,000
Cooperative Welfare (Federal)					
Fund	<u>316,600</u>	<u>196,600</u>		<u>\$31,600</u>	<u>544,800</u>
TOTAL	\$412,300	\$223,400		\$31,600	\$667,300
B. DOMESTIC VIOLENCE COUNCIL:					
FROM:					
Cooperative Welfare (General)					
Fund	\$12,700	\$1,300			\$14,000
Domestic Violence Project					
Fund	170,100	263,200		\$171,800	605,100
Cooperative Welfare (Dedicated)					
Fund		20,000			20,000
Cooperative Welfare (Federal)					
Fund	<u>109,700</u>	<u>166,900</u>		<u>7,415,400</u>	<u>7,692,000</u>
TOTAL	\$292,500	\$451,400		\$7,587,200	\$8,331,100
DIVISION TOTAL	\$704,800	\$674,800		\$7,618,800	\$8,998,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>II. INDIRECT SUPPORT SERVICES:</b>					
FROM:					
Cooperative Welfare (General)					
Fund	\$10,186,400	\$6,274,200			\$16,460,600
Cooperative Welfare (Dedicated)					
Fund	2,901,500	1,605,600			4,507,100
Cooperative Welfare (Federal)					
Fund	<u>10,293,600</u>	<u>6,796,600</u>			<u>17,090,200</u>
TOTAL	\$23,381,500	\$14,676,400			\$38,057,900
<b>III. HEALTHCARE POLICY INITIATIVES:</b>					
FROM:					
Cooperative Welfare (Federal)					
Fund	\$600,000	\$8,172,100			\$8,772,100
<b>IV. LICENSING AND CERTIFICATION:</b>					
FROM:					
Cooperative Welfare (General)					
Fund	\$1,388,500	\$273,300	\$2,100		\$1,663,900
Cooperative Welfare (Dedicated)					
Fund	743,000	12,200			755,200
Cooperative Welfare (Federal)					
Fund	<u>3,256,700</u>	<u>622,500</u>	<u>7,900</u>		<u>3,887,100</u>
TOTAL	\$5,388,200	\$908,000	\$10,000		\$6,306,200
GRAND TOTAL	\$30,074,500	\$24,431,300	\$10,000	\$7,618,800	\$62,134,600

**SECTION 2. FTP AUTHORIZATION.** In accordance with Section 67-3519, Idaho Code, each of the divisions in the Department of Health and Welfare listed below is authorized no more than the number of full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Developmental Disabilities Council .....	6.0
Domestic Violence Council .....	3.0
Indirect Support Services .....	289.6
Healthcare Policy Initiatives .....	7.0
Licensing and Certification .....	67.9

**SECTION 3. GENERAL FUND TRANSFERS.** As appropriated, the State Controller shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.



SECTION 4. TRUSTEE AND BENEFIT PAYMENTS. Notwithstanding the provisions of Section 67-3511, Idaho Code, funds budgeted in the trustee and benefit payments expenditure class shall not be transferred to any other expense classes during fiscal year 2016.

SECTION 5. PROGRAM INTEGRITY. Notwithstanding any other provisions of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources appropriated for each budgeted program.

SECTION 6. MEDICAID TRACKING REPORT. The Department of Health and Welfare, Medicaid Division and Indirect Support Services Division, shall deliver on a monthly basis to the Legislative Services Office and the Division of Financial Management a report that compares the Medicaid budget as appropriated, distributed by month for the year, to actual expenditures and remaining forecasted expenditures for the year. The report shall also include a forecast, updated monthly, of the next fiscal year's anticipated trustee and benefit expenditures. The format of the report, and the information included therein, shall be determined by the Legislative Services Office and the Division of Financial Management.

SECTION 7. MEDICAID PROGRAM INTEGRITY COLLECTIONS. It is the intent of the Legislature that the Indirect Support Services Division provide reports biannually to the Legislative Services Office and the Division of Financial Management comparing the total costs from all funding sources used for the Medicaid Program Integrity Unit and the collections related to those efforts. The format of the report, and the information included therein, shall be determined by the Legislative Services Office and the Division of Financial Management. The first report shall be submitted no later than December 31, 2015, and the second report shall be submitted no later than June 30, 2016.

SECTION 8. PROGRAM TRANSFER REPORT. The Department of Health and Welfare, Indirect Support Services Division, shall provide, on a quarterly basis, to the Legislative Services Office and the Division of Financial Management, a report that compares the department budget as appropriated to the estimated expenditures of the department for each budget unit, to include transfers of FTP authority between and among budget units; transfers of appropriation, by fund, between and among budget units; and transfers of funds by expense class, between and among budget units.

SECTION 9. REPORTING ON USE OF ADDITIONAL VOCA FUNDS. The Domestic Violence Council shall provide a report to the Legislative Services Office and the Division of Financial Management that describes the status of the additional federal Victims of Crime Act (VOCA) funds that were appropriated in fiscal year 2016. These funds were provided to the council by the federal government with little notice and at an amount that more than doubled the normal distribution. The format of the report, and the information included therein, shall be determined by the Legislative Services Office and the Division of Financial Management. The report shall be provided no later than December 31, 2015.

SECTION 10. REPORT ON FACILITY LICENSING AND CERTIFICATION WORKLOAD AND CASELOAD. It is the intent of the Legislature that the Department of Health and Welfare, Licensing and Certification Program, provide an annual report to the Legislative Services Office and the Division of Financial Management, on the status of facility licensing and certifications, as well as staff workload and caseload issues. For the past several years, the program has noted staffing issues related to retention which in turn has

created a large backlog of facility inspections and licensures. The format of the report, and the information included therein, shall be determined by the Legislative Services Office and the Division of Financial Management. The report shall be submitted no later than December 31, 2015.

Approved April 3, 2015

CHAPTER 239  
(H.B. No. 289)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION FOR FISCAL YEAR 2015; REDUCING PERSONNEL COSTS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION IN FISCAL YEAR 2015; REDUCING OPERATING EXPENDITURES TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION IN FISCAL YEAR 2015; 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 308, Laws of 2014, and any other appropriation provided for by law, there is hereby appropriated from the Public Instruction Fund to the Superintendent of Public Instruction, the following amounts to be expended for the designated expense classes, for the period July 1, 2014, through June 30, 2015:

FOR:

Personnel Costs	\$71,600
Operating Expenditures	<u>130,000</u>
TOTAL	\$201,600

SECTION 2. Notwithstanding any other provision of law to the contrary, the appropriation made to the Superintendent of Public Instruction in Section 1, Chapter 308, Laws of 2014, from the Federal Grant Fund, is hereby reduced by \$71,600 for personnel costs, for the period July 1, 2014, through June 30, 2015.

SECTION 3. Notwithstanding any other provision of law to the contrary, the appropriation made to the Superintendent of Public Instruction in Section 1, Chapter 308, Laws of 2014, from the Federal Grant Fund, is hereby reduced by \$230,000 for operating expenditures, for the period July 1, 2014, through June 30, 2015.

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 April 3, 2015

CHAPTER 240  
(H.B. No. 290)

AN ACT

APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO FOR SPECIAL PROGRAMS FOR FISCAL YEAR 2016; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING FOR THE TRANSFER OF UNEXPENDED AND UNENCUMBERED MONEYS TO THE OPPORTUNITY SCHOLARSHIP PROGRAM ACCOUNT AT THE END OF FISCAL YEAR 2015.

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

SECTION 1. There is hereby appropriated to the State Board of Education and the Board of Regents of the University of Idaho for Special Programs, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>I. FOREST UTILIZATION RESEARCH:</b>					
FROM:					
General					
Fund	\$902,900	\$129,300	\$46,600		\$1,078,800
<b>II. GEOLOGICAL SURVEY:</b>					
FROM:					
General					
Fund	\$799,300	\$22,000	\$2,900		\$824,200
<b>III. SCHOLARSHIPS AND GRANTS:</b>					
FROM:					
General					
Fund	\$61,600			\$6,663,300	\$6,724,900
Federal Grant					
Fund	<u>17,800</u>	<u>\$1,000</u>		<u>2,064,600</u>	<u>2,083,400</u>
TOTAL	\$79,400	\$1,000		\$8,727,900	\$8,808,300
<b>IV. MUSEUM OF NATURAL HISTORY:</b>					
FROM:					
General					
Fund	\$472,200	\$13,800			\$486,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
V. SMALL BUSINESS DEVELOPMENT CENTERS:					
FROM:					
General					
Fund	\$559,700	\$8,000			\$567,700
VI. TECHHELP:					
FROM:					
General					
Fund	\$155,100				\$155,100
GRAND TOTAL	\$2,968,600	\$174,100	\$49,500	\$8,727,900	\$11,920,100

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, each of the programs in the State Board of Education and the Board of Regents of the University of Idaho specified in this section is authorized no more than the number of full-time equivalent positions shown at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Forest Utilization Research .....	9.68
Geological Survey .....	10.28
Scholarships and Grants .....	1.35
Museum of Natural History .....	7.20
Small Business Development Centers .....	7.87
TechHelp .....	1.75

SECTION 3. TRANSFER UNEXPENDED AND UNENCUMBERED MONEYS TO OPPORTUNITY SCHOLARSHIP PROGRAM FUND. Moneys appropriated from the General Fund to the Scholarships and Grants Program for the period July 1, 2014, through June 30, 2015, that are unexpended and unencumbered as of June 30, 2015, are hereby appropriated and the State Controller shall transfer the available balance at the end of fiscal year 2015 to the Opportunity Scholarship Program Fund created in Section 33-4303, Idaho Code.

Approved April 3, 2015

CHAPTER 241  
(H.B. No. 293)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR  
2016; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSI-  
TIONS.

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, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$1,698,300	\$934,900	\$111,100	\$31,600	\$2,775,900
Miscellaneous Revenue					
Fund	671,800	665,100			1,336,900
Records Management Service					
Fund	108,600	139,000			247,600
Capitol Commission Operating					
Fund	63,800	53,500			117,300
Federal Grant					
Fund	<u>901,200</u>	<u>384,000</u>	<u>0</u>	<u>130,000</u>	<u>1,415,200</u>
TOTAL	\$3,443,700	\$2,176,500	\$111,100	\$161,600	\$5,892,900

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Idaho State Historical Society is authorized no more than forty-nine and two-hundredths (49.02) full-time equivalent positions at any point during the period July 1, 2015, through June 30, 2016, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved April 3, 2015