

GENERAL LAWS
OF THE
STATE OF IDAHO



ORDERED BY
THE IDAHO SUPREME COURT
September 25, 2015

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

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

Chairman Lodge
Senate Judiciary & Rules
Chairman Wills
House Judiciary, Rules, & Administration

SENATE BILL NO. 1011

AN ACT

RELATING TO HORSE RACING; REPEALING SECTION 54-2512A, IDAHO CODE, RELATING TO PARI-MUTUEL BETTING ON HISTORICAL HORSE RACES, DISTRIBUTIONS OF DEPOSITS AND HISTORICAL HORSE RACE PURSE MONEYS FUND.

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

SECTION 1. That Section 54-2512A, Idaho Code, be, and the same is hereby repealed.

State of Idaho

Office of the Secretary of State

CERTIFICATION

I, **Lawrence Denney**, Secretary of State of the State of Idaho and legal custodian of the Seal of said State and all Acts of the Legislature of the State of Idaho, do hereby certify that this bill, **SENATE BILL 1011**, in accordance with the court's order in *Coeur d'Alene Tribe v. Lawrence Denney* and having remained with the Governor five (5) days (Sundays excepted), and the legislature being in session, has become a law on this tenth day of September, 2015, and that the same appears of record in this office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Idaho. Done at Boise, Idaho, this 11th day of September, 2015.




LAWRENCE DENNEY
Secretary of State

By


LISA MASON
Administrator
Legislative and Executive Affairs

GENERAL LAWS
OF THE
STATE OF IDAHO



PASSED AND PUBLISHED BY
THE SECOND REGULAR SESSION OF THE
SIXTY-THIRD IDAHO LEGISLATURE

Convened January 11, 2016
Adjourned March 25, 2016

Volume 1

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

Chairman Lodge
Senate Judiciary & Rules
Chairman Wills
House Judiciary, Rules, & Administration

CHAPTER 1
(H.B. No. 425)

AN ACT

RELATING TO TAXES; AMENDING SECTION 63-3004, IDAHO CODE, TO UPDATE REFERENCES TO THE INTERNAL REVENUE CODE AND TO ADD LANGUAGE REGARDING MARRIAGE; 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 2015⁶.

(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.

(d) Notwithstanding subsection (c) of this section, marriages recognized and permitted by the United States supreme court and the ninth circuit court of appeals shall also be recognized for purposes of the Idaho income tax act.

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, 2016.

Approved February 9, 2016

CHAPTER 2
(S.B. No. 1200)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF LANDS; AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT POSITIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 2, Chapter 213, Laws of 2015, 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, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General				
Fund	\$82,800	\$93,500	\$13,200	\$189,500
Department of Lands				
Fund	<u>82,800</u>	<u>93,500</u>	<u>13,200</u>	<u>189,500</u>
TOTAL	\$165,600	\$187,000	\$26,400	\$379,000

SECTION 2. FTP AUTHORIZATION. The full-time equivalent position authorization provided to the Department of Lands in Section 3, Chapter 213, Laws of 2015, is increased by three and thirty-three hundredths (3.33) for the period July 1, 2015, through June 30, 2016.

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

Approved February 10, 2016

CHAPTER 3
(S.B. No. 1199)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE MEDICAL BOARDS FOR FISCAL YEAR 2016;
AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT POSITIONS FOR FISCAL YEAR
2016; 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 148, Laws of 2015, and any other appropriation provided for by law, there is hereby appropriated to the Medical Boards, the following amounts to be expended for the designated programs and expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. BOARD OF DENTISTRY:				
FROM:				
State Regulatory				
Fund		\$80,000		\$80,000
II. BOARD OF PHARMACY:				
FROM:				
State Regulatory				
Fund	\$15,900		\$5,200	\$21,100
GRAND TOTAL	\$15,900	\$80,000	\$5,200	\$101,100

SECTION 2. FTP AUTHORIZATION. The full-time equivalent position authorization provided to the Board of Pharmacy in Section 2, Chapter 148, Laws of 2015, is increased by one (1.00) for the period July 1, 2015, through June 30, 2016.

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

Approved February 10, 2016

CHAPTER 4
(H.B. No. 349)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 2016; 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 138, Laws of 2015, 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, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. FISHERIES:			
FROM:			
Fish and Game (Federal)			
Fund	\$14,000	\$1,224,700	\$1,238,700
II. WILDLIFE:			
FROM:			
Fish and Game (Licenses)			
Fund		\$100,000	\$100,000
Fish and Game (Federal)			
Fund		<u>300,000</u>	<u>300,000</u>
TOTAL		\$400,000	\$400,000
GRAND TOTAL	\$14,000	\$1,624,700	\$1,638,700

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

Approved February 10, 2016

CHAPTER 5
(H.B. No. 342)

AN ACT
PROVIDING AN APPROPRIATION AND A TRANSFER OF FUNDS TO THE PEST CONTROL DEFICIENCY 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 \$324,000 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 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 10, 2016

CHAPTER 6
(H.B. No. 365)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE DIVISION OF BUILDING SAFETY FOR FISCAL YEAR 2016; 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 2015, and any other appropriation provided for by law, there is hereby appropriated \$300,000 from the School Security Assessment Fund to the Division of Building Safety, to be expended for operating expenditures, for the period July 1, 2015, through June 30, 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.

Approved February 10, 2016

CHAPTER 7
(H.B. No. 364)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF LABOR FOR FISCAL YEAR 2016; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 3, Chapter 331, Laws of 2015, and any other appropriation provided for by law, there is hereby appropriated to the Department of Labor, the following amounts to be

expended for 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. UNEMPLOYMENT INSURANCE ADMINISTRATION:			
FROM:			
Miscellaneous Revenue			
Fund	\$250,000	\$5,000	\$255,000
II. EMPLOYMENT SERVICES:			
FROM:			
Miscellaneous Revenue			
Fund	\$941,600	\$611,500	\$1,553,100
GRAND TOTAL	\$1,191,600	\$616,500	\$1,808,100

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

Approved February 10, 2016

CHAPTER 8
(H.B. No. 363)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FROM THE STATE HIGHWAY FUND FOR FISCAL YEAR 2016; APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FROM THE STRATEGIC INITIATIVES PROGRAM FUND FOR FISCAL YEAR 2016; 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 340, Laws of 2015, and any other appropriation provided for by law, there is hereby appropriated \$49,886,700 from the State Highway (Dedicated) Fund to the Idaho Transportation Department for the Contract Construction and Right-of-Way Acquisition Program, to be expended for capital outlay, for the period July 1, 2015, through June 30, 2016.

SECTION 2. In addition to the appropriation made in Section 1, Chapter 340, Laws of 2015, and any other appropriation provided for by law, there is hereby appropriated \$54,700,000 from the Strategic Initiatives Program Fund to the Idaho Transportation Department for the Contract Construction and Right-of-Way Acquisition Program, to be expended for capital outlay, for the period July 1, 2015, through June 30, 2016.

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

Approved February 10, 2016

CHAPTER 9
(H.B. No. 347)

AN ACT

RELATING TO THE SALES AND USE TAX; AMENDING SECTION 63-3622S, IDAHO CODE, TO EXEMPT CERTAIN BROADCASTING HAND TOOLS PRICED UP TO A CERTAIN AMOUNT FROM CERTAIN TAXES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-3622T, IDAHO CODE, TO EXEMPT CERTAIN NEWSPAPER PRODUCTION HAND TOOLS PRICED UP TO A CERTAIN AMOUNT FROM CERTAIN TAXES; AMENDING SECTION 63-3622W, IDAHO CODE, TO REMOVE REFERENCE TO CERTAIN HAND TOOLS AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 63-3622JJ, IDAHO CODE, TO EXEMPT CERTAIN LOGGING HAND TOOLS FROM CERTAIN TAXES.

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

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

63-3622S. RADIO AND TELEVISION BROADCASTING EQUIPMENT. There are exempted from the taxes imposed by this chapter receipts from the sale, storage, use or other consumption in this state of tangible personal property directly used and consumed in the production and broadcasting of radio and television programs when the purchase, storage, use or other consumption is by a business or segment of a business which is primarily devoted to such production and broadcasting, provided, that the use or consumption of such tangible personal property is necessary or essential to the performance of such operation. This exemption does not include machinery, equipment, materials and supplies used in a manner that is incidental to the production and broadcasting operation, such as maintenance and janitorial equipment and supplies and hand tools with a unit price not in excess of one hundred dollars (\$100); nor does it include tangible personal property used in any activities other than actual production and broadcasting operations such as office equipment and supplies, equipment and supplies used in selling and distributing activities, in research, or in transportation activities; nor shall this exemption include motor vehicles or aircraft, without regard to the use to which such motor vehicles or aircraft are put.

SECTION 2. That Section 63-3622T, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622T. EQUIPMENT TO PRODUCE CERTAIN NEWSPAPERS. There are exempted from the taxes imposed by this chapter:

(a) Receipts from the sale, storage, use or other consumption in this state of tangible personal property directly used and consumed in the production of publications in a newspaper format which are distributed to the public at large and which rely on advertising revenue as their primary source of income; provided, that the purchase, storage, use or other consumption is by a business or segment of a business which is primarily devoted to such production of said publications; provided, further, that the use or consumption of such tangible personal property is necessary or essential to the performance of such publication business. This exemption does not include machin-

ery, equipment, materials and supplies used in a manner that is incidental to the production of said publications, such as maintenance and janitorial equipment and supplies and hand tools with a unit price not in excess of one hundred dollars (\$100); nor does it include tangible personal property used in any activities other than the actual production of the publication and shall not include property such as office equipment and supplies, equipment and supplies used in selling and distributing activities, in research or in transportation activities; nor shall this exemption include motor vehicles or aircraft without regard to the use to which such motor vehicles or aircraft are put.

(b) Provided, further, that this exemption shall apply when the publication referred to herein is distributed to the public free of charge.

(c) Provided, further, that in order for the exemption to be applicable, at least ten percent (10%) of the total publication, computed on an average annual column inch basis, must be devoted to the publication of nonincome producing informative material.

SECTION 3. That Section 63-3622W, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622W. IRRIGATION EQUIPMENT AND SUPPLIES. There are exempted from the taxes imposed by this chapter, all sales of irrigation equipment and supplies, ~~except hand tools as defined in section 63-3622D, Idaho Code,~~ to be used for agricultural production purposes, whether or not such equipment and supplies are to become a part of real estate and whether or not installed by the farmer, a contractor or subcontractor.

SECTION 4. That Section 63-3622JJ, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622JJ. LOGGING EXEMPTION. There are exempted from the taxes imposed by this chapter:

(1) The sale at retail, storage, use or other consumption in this state of tangible personal property which is primarily and directly used or consumed in logging including, but not limited to, log loaders, log jammers, log skidders and fuel used in logging trucks, provided that the use or consumption of such tangible personal property is necessary or essential to logging.

(2) The exemption allowed by subsection (1) of this section does not include machinery, equipment, materials and supplies used in a manner that is incidental to logging such as maintenance and janitorial equipment and supplies, ~~and hand tools with a unit purchase price not in excess of one hundred dollars (\$100);~~ nor does it include tangible personal property used in any activities other than the actual logging, such as office equipment and supplies, equipment and supplies used in selling or distributing activities or, except for fuel used in logging trucks, in transportation activities; nor shall this exemption include motor vehicles or aircraft, without regard to the use to which such motor vehicles or aircraft are put; nor shall this exemption apply to vehicles or equipment described in section 63-3622HH, Idaho Code.

Approved February 18, 2016

CHAPTER 10
(H.B. No. 344)

AN ACT

RELATING TO PROPERTY TAX RELIEF; AMENDING SECTION 63-602AA, IDAHO CODE, TO REVISE THE FILING DEADLINE TO APPLY FOR A HARDSHIP APPLICATION WITH THE BOARD OF EQUALIZATION, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS.

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

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

63-602AA. PROPERTY EXEMPT FROM TAXATION -- EXCEPTIONAL SITUATIONS. (1) The following property is exempt or partially exempt from taxation: real and personal property belonging to persons who, because of unusual circumstances which that affect their ability to pay the property tax, should be relieved from paying all or part of said tax in order to avoid undue hardship, which undue hardship must be determined by the board of equalization.

(2) An exceptional value exemption granted under this section shall be for the current tax year only and property exempted hereunder shall continue to be listed and assessed for the ensuing tax years as other property.

(3) Claimants seeking exemption under this section must apply each year to the board of equalization and such claim must be submitted by the fourth Monday of June 20 of the current year. The board of equalization must consider and act on all such claims no later than the second Monday of July.

(4) Each person claiming such exemption shall give a sworn statement containing full and complete information of his financial status to such board and shall make true answers to all questions propounded in writing, or otherwise, touching such person's right to the exemption claimed. The chairman of the board shall have authority to administer oaths to each person appearing as a claimant for such exemption and, in addition to such examination, each claimant shall subscribe to and swear that his answers to questions propounded on written forms to be prescribed by the state tax commission are true, and which sworn statement shall be kept and filed by the clerk of the county board of equalization. The board may, in its discretion and for good cause shown, allow an agent or some person acting for and on behalf of the claimant to make the claim for exemption for any claimant in the manner herein provided, or where a person is unable to make such sworn statement, ~~his wife, widow~~ the person's spouse, surviving spouse, guardian or personal representative, or other person having knowledge of the facts, may make such sworn statement in his stead.

(5) The county board of equalization shall decide and determine from each examination and from each written claim for exemption whether or not such person is entitled to the exemption claimed or to any part thereof, and shall make a record thereof accordingly.

Approved February 18, 2016

CHAPTER 11
(H.B. No. 348)

AN ACT

RELATING TO THE SALES AND USE TAX; AMENDING SECTION 63-3622R, IDAHO CODE, TO ADD PADDLEBOARDS AND SIMILAR VESSELS TO THE LIST OF WATERCRAFT THAT ARE TAXABLE TO NONRESIDENTS EVEN IF USED OUTSIDE OF THE STATE.

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, the terms "all-terrain vehicle" or "ATV," "utility type vehicle" or "UTV," and "specialty off-highway vehicle" or "SOHV" mean all-terrain vehicle or ATV, utility type vehicle or UTV, and specialty off-highway vehicle or SOHV as defined in section 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, paddleboards, ~~or~~ inflatable boats or similar watercraft, unless such canoes, kayaks, paddleboards, ~~or~~ inflatable boats or similar watercraft 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.

Approved February 18, 2016

CHAPTER 12
(H.B. No. 353)

AN ACT

RELATING TO THE INCOME TAX; AMENDING SECTION 63-3035, IDAHO CODE, TO ALLOW CERTAIN EMPLOYERS TO PAY INCOME TAX WITHHOLDING ON A MONTHLY BASIS 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 63-3035, Idaho Code, be, and the same is hereby amended to read as follows:

63-3035. STATE WITHHOLDING TAX ON PERCENTAGE BASIS -- WITHHOLDING, COLLECTION AND PAYMENT OF TAX. (a) Every employer who is required under the provisions of the Internal Revenue Code to withhold, collect and pay income tax on wages or salaries paid by such employer to any employee (other than employees specified in Internal Revenue Code section 3401(a)(2)) shall, at the time of such payment of wages, salary, bonus or other emolument to such employee, deduct and retain therefrom an amount substantially equivalent to the tax reasonably calculated by the state tax commission to be due from the employee under this chapter. The state tax commission shall prepare tables showing amounts to be withheld, and shall supply same to each employer subject to this section. In the event that an employer can demonstrate administrative inconvenience in complying with the exact requirements set forth in these tables, he may, with the consent of the state tax commission and upon application to it, use a different method which will produce substantially the same amount of taxes withheld. Every employer making payments of wages or salaries earned in Idaho, regardless of the place where such payment is made:

- (1) Shall be liable to the state of Idaho for the payment of the tax required to be deducted and withheld under this section and shall not be liable to any individual for the amount deducted from his wages and paid over in compliance or intended compliance with this section;
- (2) Must pay to the state tax commission monthly on or before the 20th twentieth day of the succeeding month, or at such other times as the state tax commission may allow, an amount of tax which, under the provisions of this chapter, he is required to deduct and withhold;

(3) Shall register with the state tax commission, in the manner prescribed by it, to establish an employer's withholding account number. The account number will be used to report all amounts withheld, for the annual reconciliation required in this section, and for such other purposes relating to withholding as the state tax commission may require; and

(4) Must, notwithstanding the provisions of paragraphs (1) and (2) of this subsection, if the amount of withholding of such employer for the preceding twelve (12) month period equals or exceeds two hundred forty thousand dollars (\$240,000) per annum or an average of twenty thousand dollars (\$20,000) per month per annum, pay to the state tax commission on the basis of two (2) withholding periods. The first of which shall begin on the first day of the month and end on the fifteenth day of the same month and payment shall be made not later than the twentieth day of the same month. The second period shall begin on the sixteenth day of the same month and end on the last day of the same month, and payment shall be made not later than the fifth day of the following month. An employer meeting the withholding threshold requirements of this subsection, but only having one (1) pay period per month, may, upon request to and approval by the state tax commission, pay in accordance with paragraph (2) of this subsection.

(5) If a payment required pursuant to ~~subsection (a) paragraph (2) or (a) (4)~~ of this subsection is not made or is made delinquent or if made is not equal to the withholding required under this section, the state tax commission may treat the failure as a failure to file a return and may take administrative and judicial actions as authorized by this chapter in the case of a failure to file a return. Interest, at the rate provided by section 63-3045, Idaho Code, shall apply to any such underpayment.

(6) Commencing in 2006, the state tax commission shall determine whether the threshold amounts established by ~~subsection (a) paragraph (4)~~ of this subsection must be adjusted to reflect fluctuations in the cost of living. The state tax commission shall base its determination on the cumulative effect of the annual cost-of-living percentage modifications determined by the United States secretary of health and human services pursuant to 42 U.S.C. 415(i). When the cumulative percentage applied to the monthly threshold amount equals or exceeds five thousand dollars (\$5,000), the commission shall promulgate a rule adjusting the monthly threshold amount by five thousand dollars (\$5,000) and making the necessary proportional adjustment to the annual threshold amount. The rule shall be effective for the next succeeding calendar year and each year thereafter until again adjusted by the commission. The tax commission shall determine subsequent adjustments in the same manner, in each case using the year of the last adjustment as the base year.

(b) (1) In addition to the payments required pursuant to subsections (a) (2) and ~~(a) (4)~~ of this section, every employer shall file a return upon such form as shall be prescribed by the state tax commission, but not more frequently than annually, or as required pursuant to any agreement between the state tax commission and the department of labor under section 63-3035B, Idaho Code, unless a shorter filing period and due date is prescribed by the state tax commission. The return shall be due on the last day of the second month following the end of the period to which the return relates. The return shall:

(i) Show, for the period to which it relates, the total amount of wages, salary, bonus or other emolument paid to his employees, the amount deducted therefrom in accordance with the provisions of the Internal Revenue Code, the amount deducted therefrom in accordance with the provisions of this section, the amount of any previous payments made pursuant to this section, the amount of any

deficiency due from the employer or refund payable by the state tax commission and such pertinent and necessary information as the state tax commission may require.

(ii) Include a copy of the declaration of withholding provided to employees pursuant to ~~subsection (b)~~ paragraph (2) of this subsection.

(2) Every employer making a declaration of withholding as provided herein shall furnish to the employees annually, but not later than thirty (30) days after the end of the calendar year, a record of the amount of tax withheld from such employee on forms to be prescribed, prepared and furnished by the state tax commission.

(3) Every employer who is required, under Internal Revenue Code section 6011, to file returns on magnetic media, machine readable form or electronic means, as defined in the Idaho uniform electronic transactions act, may be required by rules of the state tax commission to file corresponding state returns on similar magnetic media, machine readable form or electronic means. Such rules may provide a different due date for such returns, which shall be no later than the date employers are required to file such returns with the internal revenue service or the social security administration.

(c) All moneys deducted and withheld by every employer shall immediately upon such deduction be state money and every employer who deducts and retains any amount of money under the provisions of this chapter shall hold the same in trust for the state of Idaho and for the payment thereof to the state tax commission in the manner and at the times in this chapter provided. Any employer who does not possess real property situated within the state of Idaho, which, in the opinion of the state tax commission, is of sufficient value to cover his probable tax liability, may be required to post a surety bond in such sum as the state tax commission shall deem adequate to protect the state.

(d) The provisions of this chapter relating to additions to tax in case of delinquency, and penalties, shall apply to employers subject to the provisions of this section and for these purposes any amount deducted, or required to be deducted and remitted to the state tax commission under this section, shall be considered to be the tax of the employer and with respect to such amount he shall be considered the taxpayer.

(e) Amounts deducted from wages of an employee during any calendar year in accordance with the provisions of this section shall be considered to be in part payment of the tax imposed on such employee for his tax year, which begins within such calendar year, and the return made by the employer under this subsection ~~(e)~~ shall be accepted by the state tax commission as evidence in favor of the employee of the amount so deducted from his wages. Where the total amount so deducted exceeds the amount of tax on the employee, based on his Idaho taxable income, or where his income is not taxable under this chapter, the state tax commission shall, after examining the annual return filed by the employee in accordance with this chapter, but not later than sixty (60) days after the filing of each return, refund the amount of the excess deducted.

(f) This section shall in no way relieve any taxpayer from his obligation of filing a return at the time required under this chapter, and, should the amount withheld under the provisions of this section be insufficient to pay the total tax of such taxpayer, such unpaid tax shall be paid at the time prescribed by section 63-3034, Idaho Code.

(g) An employee receiving wages shall on any day be entitled to not more than, but may claim fewer than, the number of withholding exemptions to which he is entitled under the Internal Revenue Code for federal income tax withholding purposes.

(h) An employer shall use the exemption certificate filed by the employee with the employer under the withholding exemption provisions of the

Internal Revenue Code in determining the amount of tax to be withheld from the employee's wages or salary under this chapter. The state tax commission may redetermine the number of withholding exemptions to which an employee is entitled under subsection (g) of this section, and the state tax commission may require such exemption certificate to be filed on a form prescribed by the commission in any circumstance where the commission finds that the exemption certificate filed for Internal Revenue Code purposes does not properly reflect the number of withholding exemptions to which the employee is entitled under this chapter. In no event shall any employee give an exemption certificate which claims a higher number of withholding exemptions than the number to which the employee is entitled by subsection (g) of this section.

SECTION 2. This act shall be in full force and effect on and after January 1, 2017.

Approved February 18, 2016

CHAPTER 13
(H.B. No. 358)

AN ACT

RELATING TO REVENUE AND TAXATION; AMENDING SECTION 63-1312, IDAHO CODE, TO REMOVE A REQUIREMENT THAT THE TAX COMMISSION PROVIDE CERTAIN TAXABLE PROPERTY VALUATION INFORMATION BY SCHOOL DISTRICT; AND AMENDING SECTION 63-3638, IDAHO CODE, TO CLARIFY A PAST CODE REFERENCE.

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

SECTION 1. That Section 63-1312, Idaho Code, be, and the same is hereby amended to read as follows:

63-1312. MUNICIPAL PROPERTY TAXES -- NOTIFICATION OF VALUATION. (1) Prior to the fourth Monday of March of the current year the county auditor must notify every taxing district or authority, other than school districts, of the total taxable valuation of all the taxable property situated within such districts for the preceding calendar year for the purpose of assisting such governing authorities in their determination of tax rates to be levied for the current year and other informational purposes. ~~Prior to the fourth Monday of March of the current year the state tax commission must notify the state board of education and the state department of education of the total taxable valuation of all the taxable property situated within each school district for the preceding calendar year.~~

(2) Prior to the first Monday in August the auditor of each county in the state shall notify the state tax commission and the clerk of each taxing unit in his county of the taxable valuation of all the taxable property situated within that taxing district from the property roll for the current year, from the operating property roll for the previous year, from the prior year's actual or current year's estimated subsequent property roll and missed property roll, and the amount of value subject to occupancy tax notwithstanding exemptions authorized in chapter 6, title 63, Idaho Code, for the previous year.

(3) The auditor shall furnish the valuation from the current operating property roll upon receipt from the state tax commission.

(4) Subsequent to the notification of the county auditor of revenues sufficient to cover expenses as provided in section 50-2903(5), Idaho Code, taxable value as used in this section shall also include the value that ex-

ceeds the value of the base assessment roll for the portion of any taxing district within a revenue allocation area.

SECTION 2. That Section 63-3638, Idaho Code, be, and the same is hereby amended to read as follows:

63-3638. SALES TAX -- DISTRIBUTION. All moneys collected under this chapter, except as may otherwise be required in sections 63-3203 and 63-3709, Idaho Code, shall be distributed by the state tax commission as follows:

(1) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized under this chapter by the state tax commission shall be paid through the state refund account, and those moneys are continuously appropriated.

(2) Five million dollars (\$5,000,000) per year is continuously appropriated and shall be distributed to the permanent building fund, provided by section 57-1108, Idaho Code.

(3) Four million eight hundred thousand dollars (\$4,800,000) per year is continuously appropriated and shall be distributed to the water pollution control account established by section 39-3628, Idaho Code.

(4) An amount equal to the sum required to be certified by the chairman of the Idaho housing and finance association to the state tax commission pursuant to section 67-6211, Idaho Code, in each year is continuously appropriated and shall be paid to any capital reserve fund, established by the Idaho housing and finance association pursuant to section 67-6211, Idaho Code. Such amounts, if any, as may be appropriated hereunder to the capital reserve fund of the Idaho housing and finance association shall be repaid for distribution under the provisions of this section, subject to the provisions of section 67-6215, Idaho Code, by the Idaho housing and finance association, as soon as possible, from any moneys available therefor and in excess of the amounts which the association determines will keep it self-supporting.

(5) An amount equal to the sum required by the provisions of sections 63-709 and 63-717, Idaho Code, after allowance for the amount appropriated by section 63-718(3), Idaho Code, is continuously appropriated and shall be paid as provided by sections 63-709 and 63-717, Idaho Code.

(6) An amount required by the provisions of chapter 53, title 33, Idaho Code.

(7) An amount required by the provisions of chapter 87, title 67, Idaho Code.

(8) For fiscal year 2011, and each fiscal year thereafter, four million one hundred thousand dollars (\$4,100,000), of which two million two hundred thousand dollars (\$2,200,000) shall be distributed to each of the forty-four (44) counties in equal amounts, and one million nine hundred thousand dollars (\$1,900,000) of which shall be distributed to the forty-four (44) counties in the proportion that the population of the county bears to the population of the state. For fiscal year 2012, and for each fiscal year thereafter, the amount distributed pursuant to this subsection, shall be adjusted annually by the state tax commission in accordance with the consumer price index for all urban consumers (CPI-U) as published by the U.S. department of labor, bureau of labor statistics, but in no fiscal year shall the total amount allocated for counties under this subsection, be less than four million one hundred thousand dollars (\$4,100,000). Any increase resulting from the adjustment required in this section shall be distributed to each county in the proportion that the population of the county bears to the population of the state. Each county shall establish a special election fund to which shall be deposited all revenues received from the distribution pursuant to this subsection. All such revenues shall be used exclusively to defray the costs as-

sociated with conducting elections as required of county clerks by the provisions of section 34-1401, Idaho Code.

(9) One dollar (\$1.00) on each application for certificate of title or initial application for registration of a motor vehicle, snowmobile, all-terrain vehicle or other vehicle processed by the county assessor or the Idaho transportation department excepting those applications in which any sales or use taxes due have been previously collected by a retailer, shall be a fee for the services of the assessor of the county or the Idaho transportation department in collecting such taxes, and shall be paid into the current expense fund of the county or state highway account established in section 40-702, Idaho Code.

(10) Eleven and five-tenths percent (11.5%) is continuously appropriated and shall be distributed to the revenue sharing account which is created in the state treasury, and the moneys in the revenue sharing account will be paid in installments each calendar quarter by the state tax commission as follows:

(a) Twenty-eight and two-tenths percent (28.2%) shall be paid to the various cities as follows:

(i) Fifty percent (50%) of such amount shall be paid to the various cities, and each city shall be entitled to an amount in the proportion that the population of that city bears to the population of all cities within the state; and

(ii) Fifty percent (50%) of such amount shall be paid to the various cities, and each city shall be entitled to an amount in the proportion that the preceding year's market value for assessment purposes for that city bears to the preceding year's market value for assessment purposes for all cities within the state.

(b) Twenty-eight and two-tenths percent (28.2%) shall be paid to the various counties as follows:

(i) One million three hundred twenty thousand dollars (\$1,320,000) annually shall be distributed one forty-fourth ($1/44$) to each of the various counties; and

(ii) The balance of such amount shall be paid to the various counties, and each county shall be entitled to an amount in the proportion that the population of that county bears to the population of the state;

(c) Thirty-five and nine-tenths percent (35.9%) of the amount appropriated in this subsection shall be paid to the several counties for distribution to the cities and counties as follows:

(i) Each city and county which received a payment under the provisions of section 63-3638(e), Idaho Code, during the fourth quarter of calendar year 1999, shall be entitled to a like amount during succeeding calendar quarters.

(ii) If the dollar amount of money available under this subsection (10) (c) in any quarter does not equal the amount paid in the fourth quarter of calendar year 1999, each city's and county's payment shall be reduced proportionately.

(iii) If the dollar amount of money available under this subsection (10) (c) in any quarter exceeds the amount paid in the fourth quarter of calendar year 1999, each city and county shall be entitled to a proportionately increased payment, but such increase shall not exceed one hundred five percent (105%) of the total payment made in the fourth quarter of calendar year 1999.

(iv) If the dollar amount of money available under this subsection (10) (c) in any quarter exceeds one hundred five percent (105%) of the total payment made in the fourth quarter of calendar year 1999, any amount over and above such one hundred five percent (105%) shall be paid fifty percent (50%) to the various cities in the proportion that the population of the city bears to the population

of all cities within the state, and fifty percent (50%) to the various counties in the proportion that the population of a county bears to the population of the state; and

(d) Seven and seven-tenths percent (7.7%) of the amount appropriated in this subsection shall be paid to the several counties for distribution to special purpose taxing districts as follows:

(i) Each such district which received a payment under the provisions of section 63-3638(e), Idaho Code, as such subsection existed immediately prior to July 1, 2000, during the fourth quarter of calendar year 1999, shall be entitled to a like amount during succeeding calendar quarters.

(ii) If the dollar amount of money available under this subsection (10) (d) in any quarter does not equal the amount paid in the fourth quarter of calendar year 1999, each special purpose taxing district's payment shall be reduced proportionately.

(iii) If the dollar amount of money available under this subsection (10) (d) in any quarter exceeds the amount distributed under paragraph (i) of this subsection (10) (d), each special purpose taxing district shall be entitled to a share of the excess based on the proportion each such district's current property tax budget bears to the sum of the current property tax budgets of all such districts in the state. The state tax commission shall calculate district current property tax budgets to include any unrecovered foregone amounts as determined under section 63-802(1) (e), Idaho Code. When a special purpose taxing district is situated in more than one (1) county, the state tax commission shall determine the portion attributable to the special purpose taxing district from each county in which it is situated.

(iv) If special purpose taxing districts are consolidated, the resulting district is entitled to a base amount equal to the sum of the base amounts which were received in the last calendar quarter by each district prior to the consolidation.

(v) If a special purpose taxing district is dissolved or discontinued, the state tax commission shall continuously distribute to the board of county commissioners an amount equal to the last quarter's distribution prior to dissolution or discontinuation. The board of county commissioners shall determine any redistribution of moneys so received.

(vi) Taxing districts formed after January 1, 2001, are not entitled to a payment under the provisions of this subsection (10) (d).

(vii) For purposes of this subsection (10) (d), a special purpose taxing district is any taxing district which is not a city, a county or a school district.

(11) Amounts calculated in accordance with section 2, chapter 356, laws of 2001, for annual distribution to counties and other taxing districts beginning in October 2001 for replacement of property tax on farm machinery and equipment exempted pursuant to section 63-602EE, Idaho Code. For nonschool districts, the state tax commission shall distribute one-fourth (1/4) of this amount certified quarterly to each county. For school districts, the state tax commission shall distribute one-fourth (1/4) of the amount certified quarterly to each school district. For nonschool districts, the county auditor shall distribute to each district within thirty (30) calendar days from receipt of moneys from the state tax commission. Moneys received by each taxing district for replacement shall be utilized in the same manner and in the same proportions as revenues from property taxation. The moneys remitted to the county treasurer for replacement of property exempt from taxation pursuant to section 63-602EE, Idaho Code, may be considered by the counties and other taxing districts and budgeted at the same time, in the same manner and in the same year as revenues from taxation on personal

property which these moneys replace. If taxing districts are consolidated, the resulting district is entitled to an amount equal to the sum of the amounts which were received in the last calendar quarter by each district pursuant to this subsection prior to the consolidation. If a taxing district is dissolved or disincorporated, the state tax commission shall continuously distribute to the board of county commissioners an amount equal to the last quarter's distribution prior to dissolution or disincorporation. The board of county commissioners shall determine any redistribution of moneys so received. If a taxing district annexes territory, the distribution of moneys received pursuant to this subsection shall be unaffected. Taxing districts formed after January 1, 2001, are not entitled to a payment under the provisions of this subsection. School districts shall receive an amount determined by multiplying the sum of the year 2000 school district levy minus .004 times the market value on December 31, 2000, in the district of the property exempt from taxation pursuant to section 63-602EE, Idaho Code, provided that the result of these calculations shall not be less than zero (0). The result of these school district calculations shall be further increased by six percent (6%). For purposes of the limitation provided by section 63-802, Idaho Code, moneys received pursuant to this section as property tax replacement for property exempt from taxation pursuant to section 63-602EE, Idaho Code, shall be treated as property tax revenues.

(12) Amounts necessary to pay refunds as provided in section 63-3641, Idaho Code, to a developer of a retail complex shall be remitted to the demonstration pilot project fund created in section 63-3641, Idaho Code.

(13) Amounts calculated in accordance with subsection (4) of section 63-602KK, Idaho Code, for annual distribution to counties and other taxing districts for replacement of property tax on personal property tax exemptions pursuant to subsection (2) of section 63-602KK, Idaho Code, which amounts are continuously appropriated unless the legislature enacts a different appropriation for a particular fiscal year. For purposes of the limitation provided by section 63-802, Idaho Code, moneys received pursuant to this section as property tax replacement for property exempt from taxation pursuant to section 63-602KK, Idaho Code, shall be treated as property tax revenues. If taxing districts are consolidated, the resulting district is entitled to an amount equal to the sum of the amounts that were received in the last calendar year by each district pursuant to this subsection prior to the consolidation. If a taxing district or revenue allocation area annexes territory, the distribution of moneys received pursuant to this subsection shall be unaffected. Taxing districts and revenue allocation areas formed after January 1, 2013, are not entitled to a payment under the provisions of this subsection.

(14) Amounts collected from purchasers and paid to the state of Idaho by retailers that are not engaged in business in this state and which retailer would not have been required to collect the sales tax, less amounts otherwise distributed in subsections (1) and (10) of this section, shall be distributed to the tax relief fund created in section 57-811, Idaho Code. The state tax commission will determine the amounts to be distributed under this subsection.

(15) Any moneys remaining over and above those necessary to meet and reserve for payments under other subsections of this section shall be distributed to the general fund.

Approved February 18, 2016

CHAPTER 14
(H.B. No. 384)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE SECRETARY OF STATE FOR FISCAL YEAR 2016; 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 151, Laws of 2015, and any other appropriation provided for by law, there is hereby appropriated \$1,300,000 from the General Fund to the Secretary of State, to be expended for operating expenditures, for the period July 1, 2015, through June 30, 2016, to be used solely for the purpose of providing funds to counties pursuant to the voting system grant program.

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 18, 2016

CHAPTER 15
(H.B. No. 403)

AN ACT

REDUCING THE APPROPRIATION TO THE IDAHO STATE POLICE FOR FISCAL YEAR 2016; APPROPRIATING AND TRANSFERRING MONEYS TO THE FEDERAL GRANT FUND WITHIN THE IDAHO STATE POLICE FOR FISCAL YEAR 2016; 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 Idaho State Police for the Patrol Program in Section 1, Chapter 186, Laws of 2015, from the General Fund, is hereby reduced by \$16,400 for operating expenditures, for the period July 1, 2015, through June 30, 2016.

SECTION 2. There is hereby appropriated and the State Controller shall transfer up to \$16,400 from the General Fund to the Federal Grant Fund within the Idaho State Police, as soon as practicable, for the period July 1, 2015, through June 30, 2016. Such moneys shall be used to reimburse the Edward Byrne Memorial Justice Assistance Grant (JAG) Program and Equitable Share Program for federal losses incurred within the State Treasurer's IDLE Pool portfolio.

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, 2016

CHAPTER 16
(H.B. No. 345)

AN ACT

RELATING TO THE TAXATION OF FOREST LANDS; AMENDING SECTION 63-1703, IDAHO CODE, TO ESTABLISH AN APPEALS PROCESS IF A COUNTY ASSESSOR DETERMINES THAT A PROPERTY NO LONGER MEETS THE DEFINITION OF "FOREST LAND" AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 63-1703, Idaho Code, be, and the same is hereby amended to read as follows:

63-1703. CERTAIN FOREST LANDS TO BE DESIGNATED FOR TAXATION BY OWNER -- LIMITATIONS. For the purposes of appraisal, assessment and taxation under the provisions of this chapter, all forest lands in parcels of five (5) or more acres but less than five thousand (5,000), whether contiguous or not, as long as such parcels are held in common ownership, must be designated by the forest landowner to be subject to the provisions of either subsection (a) or (b) of this section. A forest landowner cannot have parcels designated under the provisions of both subsections (a) and (b) of this section at one (1) time. If the forest landowner fails to make a designation, his forest lands shall be subject to appraisal, assessment and taxation under the provisions of section 63-1702, Idaho Code. Once a designation is made by the forest landowner, such designation must remain in effect until the designation period expires, unless the forest lands are transferred to another owner using a different taxing category; in such case, the taxing category of the transferred forest lands shall be the same as that maintained by the new owner.

A forest landowner may change the designation of all forest lands in common ownership at the end of any designation period, subject to the recapture of any deferred taxes due as a result of such change. After January 1 and by December 31 of the tenth year of each designation period, the forest landowner must notify the county assessor of any change in forest land designation. Failure to notify the county assessor will result in the continuation of the landowner's present designation until the end of the next designation period.

Any substantial change in the use of forest lands not conforming with the definition of "forest land" in section 63-1701, Idaho Code, during such ten (10) year period under the designations made in subsection (a) or (b) of this section shall be reported by the landowner to the county assessor within thirty (30) days of the change in use. Upon notification of the change in use or a determination by the assessor that the land no longer meets the definition of "forest land" in section 63-1701, Idaho Code, the assessor shall appraise, assess and tax those acres as provided by applicable laws and rules. Failure to notify the assessor of the change in use when forest lands have been designated as subject to the provisions of subsection (a) or (b) of this section shall cause forfeiture of such designation, and cause that property to be appraised, assessed and taxed as provided in section 63-1702, Idaho Code. If there are deferred taxes subject to recapture as a result of loss of forest land designation, the assessor shall take no action to supply deferred tax amounts to the county treasurer before the taxpayer has been notified and provided an opportunity to appeal the decision of the assessor to the county board of equalization. Said appeal shall be considered timely if filed with the county clerk within thirty (30) days of receipt of the notification of the decision of the assessor. Upon the filing of a timely appeal, the taxpayer shall be given at least ten (10) days' notice of the date and lo-

cation of the next meeting of the county board of equalization at which the appeal shall be considered. Once the appeal is considered, the county board of equalization shall notify the appellant of the decision, which is further appealable pursuant to section 63-511, Idaho Code.

Forest lands designated for assessment pursuant to the provisions of section 63-1706, Idaho Code, shall be subject to the recapture of deferred taxes upon removal of such designation, a substantial change in use, or ownership transfer, except that there shall be no recapture initiated upon ownership transfer of forest lands designated as subject to the provisions of section 63-1706, Idaho Code, to a landowner with forest lands already designated as subject to the provisions of section 63-1706, Idaho Code, prior to the transfer, or who so designates his lands to be subject to the provisions of section 63-1706, Idaho Code. In the event payment is offered or made, it shall be accepted by the county treasurer and applied in the manner of payment of other property tax.

The dollar amount of deferred taxes subject to recapture shall be determined by the county assessor by applying current tax levies against the current values that would have been in effect if the lands were subject to appraisal and assessment during the current year under the provisions of section 63-1705, Idaho Code, if there has been a change in ownership or a removal of designation, or section 63-1702, Idaho Code, if there has been a change in use with no change in ownership, which amount shall be multiplied by the number of years that the lands have been subject to the designation under section 63-1706, Idaho Code. The amount of the deferred tax shall accrue through designation periods, up to a maximum of ten (10) years, and shall apply to the most recent ten (10) years in which the parcel has been designated under the provisions of section 63-1706, Idaho Code. A credit shall be allowed for taxes actually paid under the provisions of section 63-1706, Idaho Code, for an identical ten (10) year period, up to the total amount of the deferred taxes. All deferred amounts shall be a lien against the land. Deferred tax amounts shall be calculated by the county assessor on forms prescribed by the state tax commission. Deferred tax amounts shall be supplied by the county assessor to the county treasurer by May 15 of the year following conveyance or within thirty (30) days of the lapsing or conclusion of the appeals procedure provided in this section with regard to the removal of the forest land designation, or of learning of a change in use. All deferred tax amounts shall be due and payable to the county treasurer on demand and shall become delinquent if not paid by the demand due date specified by the county treasurer on the forms prescribed by the state tax commission. If the deferred tax is not paid as provided above in this section, the payment becomes delinquent and subject to late charges⁷ and interest in the amounts provided in sections 63-201(12) and 63-1001, Idaho Code, and subject to collection in the manner as set forth in chapter 10, title 63, Idaho Code. Estimated deferred tax amounts may be held by the county treasurer in a tax anticipation account from the date of conveyance until June 1 of the year following conveyance.

The county treasurer shall cause the deferred taxes and any penalty and interest paid pursuant to the provisions of this section to be apportioned to the various taxing authorities within which the property subject to the tax is located in the same manner as property taxes.

(a) A forest landowner may choose to have his forest land assessed, appraised and taxed under the provisions of section 63-1705, Idaho Code, by filing such choice with the county assessor on a form prescribed by the state tax commission. Designation filed pursuant to section 63-1705, Idaho Code, shall become effective the first day of January following the year of designation.

(b) A forest landowner may choose to have his forest land assessed, appraised and taxed under the provisions of section 63-1706, Idaho Code, by filing such choice with the county assessor on a form prescribed by the state

tax commission. Designation filed pursuant to section 63-1706, Idaho Code, shall become effective the first day of January following the year of designation.

(c) All forest products or timber harvested from investment lands not designated as subject to the provisions of section 63-1702, 63-1705 or 63-1706, Idaho Code, and delivered to a point of utilization as logs or semiprocessed forest products, except those forest products harvested for the domestic use of the landowner under the provisions of section 63-1708, Idaho Code, shall be subject to the yield tax at the time of harvest in the same manner provided for in section 63-1706, Idaho Code.

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

Approved February 19, 2016

CHAPTER 17
(H.B. No. 361)

AN ACT

RELATING TO SALES AND USE TAX; AMENDING SECTION 2, CHAPTER 47, LAWS OF 2012, TO REMOVE A SUNSET CLAUSE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 2, Chapter 47, Laws of 2012, be, and the same is hereby amended to read as follows:

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval. ~~The provisions of this act shall be null, void and of no force and effect on and after June 30, 2016.~~

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 19, 2016

CHAPTER 18
(H.B. No. 446)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 2016; 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 215, Laws of 2015, and any other appropriation provided for by law, there is hereby appropriated \$484,900 from the General Fund to the Department of Water Resources for the Management and Support Services Program, to be expended for operating expenditures, for the period July 1, 2015, through June 30, 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.

Approved February 25, 2016

CHAPTER 19
(S.B. No. 1215)

AN ACT

RELATING TO THE COMMISSION ON PESTICIDE MANAGEMENT; REPEALING CHAPTER 18, TITLE 22, IDAHO CODE, RELATING TO THE COMMISSION ON PESTICIDE MANAGEMENT; AMENDING SECTION 67-450D, IDAHO CODE, TO REMOVE REFERENCE TO THE COMMISSION ON PESTICIDE MANAGEMENT; PROVIDING AN EFFECTIVE DATE AND PROVIDING FOR THE TRANSFER OF CERTAIN MONEYS.

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

SECTION 1. That Chapter 18, Title 22, Idaho Code, be, and the same is hereby repealed.

SECTION 2. 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 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 3. This act shall be in full force and effect on and after July 1, 2016. At the end of fiscal year 2016, two officers designated by the commission shall transfer any unexpended and unencumbered moneys in accounts in the name of the Commission on Pesticide Management to the University of Idaho's Unrestricted Revenue Fund to be used for pesticide management related educational purposes.

Approved February 24, 2016

CHAPTER 20
(S.B. No. 1217)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR THE PURCHASING PROGRAM FOR FISCAL YEAR 2016; APPROPRIATING AND TRANSFERRING MONEYS FROM THE IDAHO EDUCATION NETWORK FUND TO THE PUBLIC INSTRUCTION FUND FOR FISCAL YEAR 2016; APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR THE INFORMATION TECHNOLOGY PROGRAM FOR FISCAL YEAR 2016; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 2, Chapter 346, Laws of 2015, and any other appropriation provided for by law, there is hereby appropriated \$229,300 from the General Fund to the Department of Administration for the Purchasing Program, to be expended for operating expenditures, for the period July 1, 2015, through June 30, 2016.

SECTION 2. CASH TRANSFER. There is hereby appropriated and the State Controller shall transfer \$176,000 from the Idaho Education Network Fund, in the Department of Administration, to the Public Instruction Fund, in the State Department of Education, as soon as practicable, for the period July 1, 2015, through June 30, 2016.

SECTION 3. In addition to the appropriation made in Section 2, Chapter 346, Laws of 2015, and any other appropriation provided for by law, there is hereby appropriated \$461,800 from the Idaho Education Network Fund to the Department of Administration for the Information Technology Program, to be expended for operating expenditures, for the period July 1, 2015, through June 30, 2016.

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 24, 2016

CHAPTER 21
(S.B. No. 1233)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR THE COMMUNITY, OPERATIONS, AND PROGRAM SERVICES PROGRAM FOR FISCAL YEAR 2016; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR THE INSTITUTIONS PROGRAM FOR FISCAL YEAR 2016; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR THE COMMUNITY-BASED SUBSTANCE ABUSE TREATMENT SERVICES PROGRAM FOR FISCAL YEAR 2016; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR THE INSTITUTIONS PROGRAM FOR FISCAL YEAR 2016; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR THE COMMUNITY-BASED SUBSTANCE ABUSE TREATMENT SERVICES PROGRAM FOR FISCAL YEAR 2016; 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 160, Laws of 2015, and any other appropriation provided for by law, there is hereby appropriated \$100,000 from the General Fund to the Department of Juvenile Corrections for the Community, Operations, and Program Services Program, to be expended for trustee and benefit payments, for the period July 1, 2015, through June 30, 2016, to be used for the Community Incentive Program.

SECTION 2. In addition to the appropriation made in Section 1, Chapter 160, Laws of 2015, and any other appropriation provided for by law, there is hereby appropriated \$49,200 from the General Fund to the Department of Juvenile Corrections for the Institutions Program, to be expended for operating expenditures, for the period July 1, 2015, through June 30, 2016, to be used for administrative-wide area network and broadband costs.

SECTION 3. In addition to the appropriation made in Section 1, Chapter 160, Laws of 2015, and any other appropriation provided for by law, there is hereby appropriated to the Department of Juvenile Corrections for the Community-Based Substance Abuse Treatment Services Program from the General Fund, the following amounts to be expended for the designated expense classes, to be used for electronic health records and claims processing, for the period July 1, 2015, through June 30, 2016:

FOR:

Personnel Costs	\$10,500
Operating Expenditures	<u>136,500</u>
TOTAL	\$147,000

SECTION 4. Notwithstanding any other provision of law to the contrary, the appropriation made to the Department of Juvenile Corrections for the Institutions Program in Section 1, Chapter 160, Laws of 2015, from the General Fund, is hereby reduced by \$100,000 for trustee and benefit payments, for the period July 1, 2015, through June 30, 2016.

SECTION 5. Notwithstanding any other provision of law to the contrary, the appropriation made to the Department of Juvenile Corrections for the Community-Based Substance Abuse Treatment Services Program in Section 1, Chapter 160, Laws of 2015, from the General Fund, is hereby reduced by \$147,000 for trustee and benefit payments, for the period July 1, 2015, through June 30, 2016.

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 February 24, 2016

CHAPTER 22
(S.B. No. 1197)

AN ACT

RELATING TO MINES AND MINING; AMENDING SECTION 47-1509, IDAHO CODE, TO REVISE CERTAIN REQUIRED RECLAMATION ACTIVITIES; AND AMENDING SECTION 47-1512, IDAHO CODE, TO REVISE BOND AMOUNT PROVISIONS, TO PROVIDE FOR WRITTEN NOTICE BY THE STATE BOARD OF LAND COMMISSIONERS TO AN OPERATOR OF REJECTION OF A REQUEST FOR BOND RELEASE UPON THE BOARD'S DETERMINATION THAT THE REQUIREMENTS OF A RECLAMATION PLAN OR PERMANENT CLOSURE PLAN HAVE NOT BEEN MET, AND TO PROVIDE FOR CONTENT OF THE NOTICES.

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

SECTION 1. That Section 47-1509, Idaho Code, be, and the same is hereby amended to read as follows:

47-1509. PROCEDURES IN RECLAMATION. (a) Except as otherwise provided in this act, every operator who conducts exploration or surface mining operations which disturb two (2) or more acres within the state of Idaho shall perform the following reclamation activities:

- (1) Ridges of overburden shall be leveled in such manner as to have a minimum width of ten (10) feet at the top.
- (2) Peaks of overburden shall be leveled in such a manner as to have a minimum width of fifteen (15) feet at the top.
- (3) Overburden piles shall be reasonably prepared to control erosion.
- (4) Where water run-off from affected lands results in stream or lake siltation in excess of that which normally results from run-off, the operator shall prepare affected lands and adjacent premises under the control of the operator as necessary to meet the requirements authorized under chapter 1, title 39, Idaho Code, ~~or the conditions of the water run-off prior to commencing surface mining or exploration operations, whichever is the lesser standard.~~
- (5) Roads which are abandoned shall be cross-ditched insofar as necessary to avoid erosion gullies.
- (6) Exploration drill holes shall be plugged or otherwise left so as to eliminate hazards to humans or animals.
- (7) Abandoned affected lands shall be topped to the extent that such overburden is reasonably available from the pit, with that type of overburden which is conducive to the control of erosion or the growth of the vegetation which the operator elects to plant thereon.
- (8) The operator shall conduct revegetation activities on the mined areas, overburden piles, and abandoned roads in accordance with the provisions of this act.
- (9) Tailings ponds shall be reasonably prepared in such a condition that they will not constitute a hazard to human or animal life.

(b) The board may request, in writing, that a given road or portion thereof not be cross-ditched or revegetated, and upon such request, the operator shall be excused from performing such activities as to such road or portion thereof.

(c) Every operator who conducts exploration or surface mining operations which disturb less than two (2) acres within the state of Idaho shall, wherever possible, contour the lands so disturbed to approximate the previous contour of the lands.

(d) The operator and board may agree, in writing, to do any act with respect to reclamation above and beyond the requirements herein set forth.

SECTION 2. That Section 47-1512, Idaho Code, be, and the same is hereby amended to read as follows:

47-1512. PERFORMANCE BOND -- REQUISITES. (a) Prior to conducting any surface mining operations on a mine panel covered by an approved reclamation plan or operating a cyanidation facility covered by an approved permanent closure plan, an operator shall submit to the board a bond meeting the requirements of this section.

(1) The penalty of the initial reclamation bond filed prior to conducting any surface mining operations on a mine panel shall be in an amount determined by the board to be the estimated reasonable costs of reclamation required in this chapter, in the event of failure to reclaim by an operator, of affected lands proposed to be mined during the next calendar year plus ten percent (10%) of such costs as to the acreage of affected land designated by the operator pursuant to section 47-1506(a) (1) (vi), Idaho Code, and subsection (b) of this section.

(2) The penalty of the initial permanent closure bond filed prior to operating a cyanidation facility shall be in an amount determined by the board to be the estimated reasonable costs to complete the activities specified in the permanent closure plan required in this chapter, in the event of the failure of an operator to complete those activities, plus ten percent (10%) of such costs. In setting the bond amount, the board shall avoid duplication with bonds and sureties deposited with other governmental agencies.

(3) The determination of the bond amount shall constitute a final decision subject to judicial review as set forth in subsection (a) of section 47-1514, Idaho Code. In lieu of any bond required hereunder, the operator may deposit cash and governmental securities with the board, in an amount equal to that of the required bond, on the conditions as prescribed in this section.

(b) Prior to the time that lands designated to become affected lands on a mine panel, in addition to those designated pursuant to section 47-1506(a) (1) (vi), Idaho Code, become affected land, the operator shall submit to the board a bond meeting the requirements of section 47-1512(c), Idaho Code, and the penalty of such bond shall be in the amount necessary to insure the performance of the duties of the operator under this chapter as to such affected lands actually proposed to be mined within the next calendar year. If additional acreage is subsequently proposed to be mined by an operator, the penalty of such bond shall be in an amount determined by the board to be the estimated reasonable costs of reclamation required by this chapter, in the event of failure to reclaim by an operator, of affected lands proposed to be mined during the next calendar year plus ten percent (10%) of such costs.

(c) Except as provided in this subsection, no bond for reclamation submitted pursuant to this chapter shall exceed ~~two~~ fifteen thousand ~~five~~ hundred dollars (\$~~2,500~~15,000) for any given acre of such affected land. The board may require a bond in excess of ~~two~~ fifteen thousand ~~five~~ hundred dollars (\$~~2,500~~15,000) for any given acre of affected land only when the following conditions have been met:

(1) The board has determined that such bond is necessary to meet the requirements of sections 47-1506, 47-1509, 47-1510 and 47-1511, Idaho Code.

(2) The board has delivered to the operator, in writing, a notice setting forth the reasons it believes such bond is necessary.

(3) The board has conducted a hearing where the operator is allowed to give testimony to the board concerning the amount of the proposed bond. The hearing shall be held under such rules as promulgated by the board. This requirement for a hearing may be waived, in writing, by the operator. Any hearing held shall, at the discretion of the director, extend the time, up to thirty (30) days, in which the board must act on a plan submitted.

(d) Except as provided in this subsection, no bond submitted for permanent closure of a cyanidation facility pursuant to this chapter shall exceed five million dollars (\$5,000,000). The board may require a bond in excess of five million dollars (\$5,000,000) for a cyanidation facility only when the following conditions have been met:

(1) The board has determined that such bond is necessary to meet the requirements of this chapter.

(2) The board has delivered to the operator, in writing, a notice setting forth the reasons it believes such bond is necessary.

(3) The board has conducted a hearing where the operator is allowed to give testimony to the board concerning the amount of the proposed bond. The hearing shall be held under such rules as promulgated by the board. This requirement for a hearing may be waived, in writing, by the operator. Any hearing held shall, at the discretion of the director, extend the time, up to sixty (60) days, in which the board must act on the permanent closure plan submitted.

(e) Any bond required under this chapter to be filed and maintained with the board shall be in such form as the board prescribes, payable to the state of Idaho, conditioned that the operator shall faithfully perform all requirements of this chapter and comply with all rules of the board in effect as of the date of approval of the plan in accordance with the provisions of this chapter. An operator may at any time file a single bond in lieu of separate bonds filed or to be filed pursuant to this chapter, provided that the penalty of such single bond shall be equal to the total of the penalties of the separate bonds being combined into a single bond. Further, any bond provided to another governmental agency that also meets the requirements in this section shall be deemed to be sufficient surety for the purposes of this chapter.

(f) A bond filed as above prescribed shall not be cancelled by the surety, except after not less than ninety (90) days' notice to the board. Upon failure of the operator to make substitution of surety prior to the effective date of cancellation of the bond or within thirty (30) days following notice of cancellation by the board, whichever is later, the board shall have the right to issue a cease and desist order and seek injunctive relief to stop the operator from conducting operations covered by such bond until such substitution has been made.

(g) If the license to do business in this state of any surety, upon a bond filed with the board pursuant to this chapter, shall be suspended or revoked, the operator, within thirty (30) days after receiving notice thereof from the board, shall substitute for such surety a good and sufficient corporate surety licensed to do business in this state or other surety acceptable to the board. Upon failure of the operator to make substitution of surety, the board shall have the right to issue a cease and desist order and seek injunctive relief to stop the operator from conducting operations covered by such bond until such substitution has been made.

(h) When an operator shall have completed all reclamation requirements under the provisions of this chapter as to any affected land, he shall notify the board. Within thirty (30) days after the receipt of such notice, the board shall notify the operator as to whether or not the reclamation per-

formed meets the requirements of the reclamation plan pertaining to the land in question.

(1) Upon the determination by the board that the requirements of the reclamation plan in question have been met as to said lands, the amount of bond in effect as to such lands shall be reduced by an amount designated by the board to reflect the reclamation done.

(2) Upon a determination by the board that the requirements of the reclamation plan in question have not been met as to said lands, it shall deliver to the operator, in writing, a notice of rejection of the request for bond release and shall set forth in said notice the reasons for such rejection, the factual findings upon which such rejection is based, the manner in which the reclamation fails to fulfill the requirements of the reclamation plan, and the changes necessary to comply with the requirements of the reclamation plan.

(i) When an operator shall have completed an activity specified in an approved permanent closure plan he may notify the board. Within thirty (30) days after the receipt of such notice, the board shall notify the operator as to whether or not the activity performed meets the requirements of the permanent closure plan. In determining whether or not an activity under the statutory responsibility of the department of environmental quality meets the requirements of the permanent closure plan, the board shall consult with that department.

(1) Upon the determination by the board that the activity meets the requirements of the permanent closure plan, the bond for permanent closure shall be reduced by an amount designated by the board to reflect the activity completed.

(2) Upon a determination by the board that the requirements of the permanent closure plan in question have not been met as to said lands, it shall deliver to the operator, in writing, a notice of rejection of the request for bond release and shall set forth in said notice the reasons for such rejection, the factual findings upon which such rejection is based, the manner in which the activity fails to fulfill the requirements of the permanent closure plan, and the changes necessary to comply with the requirements of the permanent closure plan.

(j) An operator may withdraw any land previously designated as affected land within a mine panel, provided that it is not already affected land, and in such event, he shall notify the board and the amount of the bond in effect as to the lands in that mine panel shall be reduced by an amount designated by the board as the amount which would have been necessary to reclaim such lands.

Approved February 25, 2016

CHAPTER 23
(S.B. No. 1206)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DOMESTIC VIOLENCE COUNCIL AND INDIRECT SUPPORT SERVICES FOR FISCAL YEAR 2016; AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT POSITIONS FOR FISCAL YEAR 2016; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 238, Laws of 2015, and any other appropriation provided for by law, there is hereby appropriated to the Department of Health and Welfare, the following

amounts to be expended for the designated programs and expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. DOMESTIC VIOLENCE COUNCIL:			
FROM:			
Cooperative Welfare (Federal)			
Fund	\$13,900	\$1,000	\$14,900
II. INDIRECT SUPPORT SERVICES:			
FROM:			
Cooperative Welfare (Federal)			
Fund		\$1,349,800	\$1,349,800
GRAND TOTAL	\$13,900	\$1,350,800	\$1,364,700

SECTION 2. FTP AUTHORIZATION. The full-time equivalent position authorization provided to the Department of Health and Welfare for the Domestic Violence Council in Section 2, Chapter 238, Laws of 2015, is increased by one (1.00) for the period July 1, 2015, through June 30, 2016.

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 25, 2016

CHAPTER 24
(S.B. No. 1207)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR STATE HOSPITAL SOUTH FOR FISCAL YEAR 2016; 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 212, Laws of 2015, and any other appropriation provided for by law, there is hereby appropriated to the Department of Health and Welfare for State Hospital South, the following amounts to be expended for personnel costs, from the listed funds for the period July 1, 2015, through June 30, 2016:

FROM:	
Cooperative Welfare (Dedicated) Fund	\$273,100
Cooperative Welfare (Federal) Fund	<u>238,500</u>
TOTAL	\$511,600

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 25, 2016

CHAPTER 25
(S.B. No. 1210)

AN ACT

RELATING TO CAREER TECHNICAL EDUCATION; AMENDING SECTION 5-343, IDAHO CODE, TO REPLACE A REFERENCE TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 15-12-213, IDAHO CODE, TO REPLACE A REFERENCE TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AMENDING SECTION 18-3309, IDAHO CODE, TO REPLACE REFERENCES TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AMENDING SECTION 33-107B, IDAHO CODE, TO REPLACE REFERENCES TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AMENDING SECTION 33-107D, IDAHO CODE, TO REPLACE A REFERENCE TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AMENDING SECTION 33-123, IDAHO CODE, TO REPLACE REFERENCES TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AMENDING SECTION 33-1002G, IDAHO CODE, TO REPLACE REFERENCES TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION AND TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 33-1252, IDAHO CODE, TO REPLACE REFERENCES TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-1629, IDAHO CODE, TO REPLACE REFERENCES TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AMENDING SECTION 33-2110, IDAHO CODE, TO REPLACE REFERENCES TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-2202, IDAHO CODE, TO REPLACE REFERENCES TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-2203, IDAHO CODE, TO REPLACE REFERENCES TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-2204, IDAHO CODE, TO REPLACE A REFERENCE TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AMENDING SECTION 33-2205, IDAHO CODE, TO REPLACE REFERENCES TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AMENDING SECTION 33-2206, IDAHO CODE, TO REPLACE REFERENCES TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AMENDING SECTION 33-2207, IDAHO CODE, TO REPLACE REFERENCES TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-2208, IDAHO CODE, TO REPLACE REFERENCES TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-2209, IDAHO CODE, TO REPLACE A REFERENCE TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AMENDING SECTION 33-2210, IDAHO CODE, TO REPLACE REFERENCES TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AMENDING SECTION 33-2211, IDAHO CODE, TO REPLACE REFERENCES TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-2212, IDAHO CODE, TO REPLACE REFERENCES TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AMENDING SECTION 33-2303, IDAHO CODE, TO REPLACE

REFERENCES TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-2306, IDAHO CODE, TO REPLACE A REFERENCE TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AMENDING SECTION 33-3726, IDAHO CODE, TO REPLACE REFERENCES TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AMENDING SECTION 33-3727, IDAHO CODE, TO REPLACE A REFERENCE TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AMENDING SECTION 33-4303, IDAHO CODE, TO REPLACE A REFERENCE TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-4603, IDAHO CODE, TO REPLACE REFERENCES TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AMENDING SECTION 33-4803, IDAHO CODE, TO REPLACE A REFERENCE TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AMENDING SECTION 33-4901, IDAHO CODE, TO REPLACE A REFERENCE TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AMENDING SECTION 33-4902, IDAHO CODE, TO REPLACE REFERENCES TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AMENDING SECTION 33-4903, IDAHO CODE, TO REPLACE REFERENCES TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AMENDING SECTION 33-4904, IDAHO CODE, TO REPLACE A REFERENCE TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AMENDING SECTION 33-4905, IDAHO CODE, TO REPLACE A REFERENCE TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AMENDING SECTION 33-4906, IDAHO CODE, TO REPLACE A REFERENCE TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AMENDING SECTION 33-5202A, IDAHO CODE, TO REPLACE REFERENCES TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AMENDING SECTION 33-5215, IDAHO CODE, TO REPLACE REFERENCES TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AMENDING SECTION 39-5002, IDAHO CODE, TO REPLACE A REFERENCE TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AMENDING SECTION 39-5009, IDAHO CODE, TO REPLACE A REFERENCE TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AMENDING SECTION 46-314, IDAHO CODE, TO REPLACE A REFERENCE TO VOCATIONAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AMENDING SECTION 49-304, IDAHO CODE, TO REPLACE A REFERENCE TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AMENDING SECTION 49-313, IDAHO CODE, TO REPLACE REFERENCES TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AMENDING SECTION 49-314, IDAHO CODE, TO REPLACE A REFERENCE TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1007, IDAHO CODE, TO REPLACE A REFERENCE TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-5003, IDAHO CODE, TO REPLACE REFERENCES TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-5303, IDAHO CODE, TO REPLACE REFERENCES TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AMENDING SECTION 72-501A, IDAHO CODE, TO REPLACE A REFERENCE TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION; AND AMENDING SECTION 72-1347B, IDAHO CODE, TO REPLACE A REFERENCE TO PROFESSIONAL-TECHNICAL EDUCATION WITH CAREER TECHNICAL EDUCATION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 5-343, Idaho Code, be, and the same is hereby amended to read as follows:

5-343. IMMUNITY OF COLLEGES AND UNIVERSITIES ALLOWING FIREARMS. No action shall lie or be maintained for civil damages in any court of this state against the board of regents of the university of Idaho, the boards of trustees of the state colleges and universities, a dormitory housing commission, the board of ~~professional-~~ for career technical education or the boards of trustees of each of the community colleges established under chapter 21, title 33, Idaho Code, where the claim arises out of the policy of the board or commission to either specifically allow or not prohibit the lawful possession and storage of firearms on its property.

SECTION 2. That Section 15-12-213, Idaho Code, be, and the same is hereby amended to read as follows:

15-12-213. PERSONAL AND FAMILY MAINTENANCE. (1) Unless a power of attorney otherwise provides, language in a power of attorney granting general authority with respect to personal and family maintenance authorizes the agent to:

(a) Perform the acts necessary to maintain the customary standard of living of the principal, the principal's spouse, and the following individuals, whether living when the power of attorney is executed or later born:

(i) The principal's children;

(ii) Other individuals legally entitled to be supported by the principal; and

(iii) Those individuals whom the principal has customarily supported or indicated the intent to support;

(b) Make periodic payments of child support and other family maintenance required by a court or governmental agency or an agreement to which the principal is a party;

(c) Provide living quarters for those individuals described in paragraph (a) of this subsection by purchase, lease or other contract or pay the operating costs, including interest, amortization payments, repairs, improvements and taxes, on premises owned by the principal or occupied by those individuals;

(d) Provide normal domestic help, usual vacations and travel expenses, and funds for shelter, clothing, food, appropriate education, including postsecondary and ~~professional-~~ career technical education and other current living costs for those individuals described in paragraph (a) of this subsection;

(e) Pay expenses for necessary health care and custodial care on behalf of the individuals described in paragraph (a) of this subsection;

(f) Act as the principal's personal representative pursuant to the health insurance portability and accountability act, sections 1171 through 1179 of the social security act, 42 U.S.C. section 1320d through 1320d-8, as amended, and applicable regulations, in making decisions related to the past, present or future payment for the provision of health care consented to by the principal or anyone authorized under the law of this state to consent to health care on behalf of the principal;

(g) Continue any provision made by the principal for automobiles or other means of transportation, including registering, licensing, insuring and replacing them for the individuals described in paragraph (a) of this subsection;

(h) Maintain credit and debit accounts for the convenience of the individuals described in paragraph (a) of this subsection and open new accounts to accomplish a lawful purpose; and

(i) Continue payments incidental to the membership or affiliation of the principal in a religious institution, club, society, order or other organization or to continue contributions to those organizations.

(2) Authority with respect to personal and family maintenance is neither dependent upon, nor limited by, authority that an agent may or may not have with respect to gifts under this chapter.

SECTION 3. That Section 18-3309, Idaho Code, be, and the same is hereby amended to read as follows:

18-3309. AUTHORITY OF GOVERNING BOARDS OF PUBLIC COLLEGES AND UNIVERSITIES REGARDING FIREARMS. (1) The board of regents of the university of Idaho, the boards of trustees of the state colleges and universities, the board for ~~professional-~~ career technical education and the boards of trustees of each of the community colleges established under chapter 21, title 33, Idaho Code, hereby have the authority to prescribe rules and regulations relating to firearms.

(2) Notwithstanding any other provision of state law, this authority shall not extend to regulating or prohibiting the otherwise lawful possession, carrying or transporting of firearms or ammunition by persons licensed under section 18-3302H or 18-3302K, Idaho Code.

(a) However, a person issued a license under the provisions of section 18-3302H or 18-3302K, Idaho Code, shall not carry a concealed weapon:

(i) Within a student dormitory or residence hall; or

(ii) Within any building of a public entertainment facility, provided that proper signage is conspicuously posted at each point of public ingress to the facility notifying attendees of any restriction on the possession of firearms in the facility during the game or event.

(b) As used in this section:

(i) "Public entertainment facility" means an arena, stadium, amphitheater, auditorium, theater or similar facility with a seating capacity of at least one thousand (1,000) persons that is owned or operated by the board of regents of the university of Idaho, a board of trustees of a state college or university, the state board for ~~professional-~~ career technical education or a board of trustees of a community college established under chapter 21, title 33, Idaho Code, that is primarily designed and used for artistic, theatrical, cultural, charitable, musical, sporting or entertainment events, but does not include publicly accessible outdoor grounds or rights-of-way appurtenant to the facility, including parking lots within the facility used for the parking of motor vehicles.

(ii) "Student dormitory or residence hall" means a building owned or operated by the board of regents of the university of Idaho, a board of trustees of a state college or university, the state board for ~~professional-~~ career technical education or a board of trustees of a community college established under chapter 21, title 33, Idaho Code, located on or within the campus area owned by the university or college to house persons residing on campus as students, but does not include off-campus housing or publicly accessible outdoor grounds or rights-of-way appurtenant to the building, including parking lots within the building used for the parking of motor vehicles.

(c) The provisions of subsection (2) (a) of this section shall not apply to the following persons:

(i) A person or persons complying with the provisions of section 19-202A, Idaho Code.

(ii) A person or an employee who is authorized to carry a firearm by the university or college board of trustees, board of regents, governing board or a person or entity with authority over the building or facility.

(iii) A person who possesses a firearm for authorized use in an approved program, event, activity or other circumstance approved by a person or entity with authority over the building or facility.

(iv) A person who possesses a firearm in a private vehicle while delivering students, employees or other persons to and from a university, college or public entertainment facility.

(v) An on-duty or off-duty certified peace officer.

(3) Any rule, regulation or policy that is contrary to this section is null and void.

SECTION 4. That Section 33-107B, Idaho Code, be, and the same is hereby amended to read as follows:

33-107B. BOARD MAY ESTABLISH AN OPTIONAL RETIREMENT PROGRAM FOR COMMUNITY COLLEGES AND POSTSECONDARY PROFESSIONAL- CAREER TECHNICAL EDUCATION INSTITUTIONS. (1) The state board of education may establish an optional retirement program under which contracts providing retirement and death benefits may be purchased for members of the teaching staff and officers of community colleges and postsecondary professional- career technical education institutions, including north Idaho college, college of southern Idaho and eastern Idaho technical college, hired on or after July 1, 1997; provided however, that no such employee shall be eligible to participate in an optional retirement program unless he would otherwise be eligible for membership in the public employee retirement system of Idaho. The benefits to be provided for or on behalf of participants in an optional retirement program shall be provided through annuity contracts or certificates, fixed or variable in nature, or a combination thereof, whose benefits are owned by the participants in the program.

(2) The state board of education is hereby authorized to provide for the administration of the optional retirement program and to perform or authorize the performance of such functions as may be necessary for such purposes. The board shall designate the company or companies from which contracts are to be purchased under the optional retirement program and shall approve the form and contents of such contracts. In making the designation and giving approval, the board shall consider:

(a) The nature and extent of the rights and benefits to be provided by such contracts for participants and their beneficiaries;

(b) The relation of such rights and benefits to the amount of contributions to be made;

(c) The suitability of such rights and benefits to the needs of the participants and the interests of the institutions in the recruitment and retention of staff members; and

(d) The ability of the designated company to provide such suitable rights and benefits under such contracts.

(3) Elections to participate in an optional retirement program shall be as follows:

(a) Eligible employees are the teaching staff and officers initially appointed or hired on or after the effective date of this chapter. All eligible employees, except those who are vested members of the public employee retirement system of Idaho, shall participate in the optional retirement program.

(b) Eligible employees who are vested members of the public employee retirement system of Idaho may make a one (1) time irrevocable election to transfer to the optional retirement program. The election shall be made in writing and within sixty (60) days of the date of initial hire or appointment, or one hundred fifty (150) days after the effective date of this chapter, whichever occurs later. The election shall be filed with the administrative officer of the employing institution. The election

shall be effective not later than the first day of the second pay period following the date of the election.

(c) Teaching staff and officers employed by the institution the day before the effective date of this chapter may make a one (1) time irrevocable election to participate in the optional retirement program. The election shall be made in writing and within one hundred fifty (150) days after the effective date of this chapter. The election shall be filed with the administrative officer of the employing institution. The election shall be effective not later than the first day of the second pay period following the date of the election.

(d) The accumulated contributions of employees who make the one (1) time irrevocable election or are required to participate in the optional retirement program may be transferred by the public employee retirement system of Idaho to such qualified plan, maintained under the optional retirement program, as designated in writing by the employee.

(e) An election by an eligible employee of the optional retirement program shall be irrevocable and shall be accompanied by an appropriate application, where required, for issuance of a contract or contracts under the program.

(4) (a) Each institution shall contribute on behalf of each participant in its optional retirement program the following:

(i) To the designated company or companies, an amount equal to seven and eighty-one hundredths percent (7.81%) of each participant's salary, reduced by any amount necessary, if any, to provide contributions to a total disability program provided either by the state or by a private insurance carrier licensed and authorized to provide such benefits, or any combination thereof, but in no event less than five percent (5%) of each participant's salary;

(ii) To the public employee retirement system, an amount equal to three and eighty-three hundredths percent (3.83%) of salaries of members who are participants in the optional retirement program. This amount shall be paid until July 1, 2011, and is in lieu of amortization payments and withdrawal contributions required pursuant to chapter 13, title 59, Idaho Code; and

(iii) Effective on and after July 1, 2011, the institutional contribution optional retirement program rate shall be equal to the PERSI contribution rates.

(b) For the purposes of section 59-1322, Idaho Code, the term "projected salaries" shall include the sum of the annual salaries of all participants in the optional retirement program established pursuant to this section.

(c) Each participant shall contribute an amount equal to six and ninety-seven hundredths percent (6.97%). Employee contributions may be made by employer pick-up pursuant to section 59-1332, Idaho Code.

(5) Any person participating in the optional retirement program shall be ineligible for membership in the public employee retirement system of Idaho so long as he remains continuously employed in any teaching staff position or as an officer with any of the institutions under the jurisdiction of the state board of education.

(6) A retirement, death or other benefit shall not be paid by the state of Idaho or the state board of education for services credited under the optional retirement program. Such benefits are payable to participants or their beneficiaries only by the designated company or companies in accordance with the terms of the contracts.

SECTION 5. That Section 33-107D, Idaho Code, be, and the same is hereby amended to read as follows:

33-107D. CAMPUS ACCESS FOR RELIGIOUS STUDENTS. (1) No state postsecondary educational institution shall take any action or enforce any policy that would deny a religious student group any benefit available to any other student group based on the religious student group's requirement that its leaders adhere to its sincerely held religious beliefs or standards of conduct.

(2) As used in this section:

(a) "Benefits" include without limitation:

(i) Recognition;

(ii) Registration;

(iii) The use of facilities at the state postsecondary educational institution for meetings or speaking purposes;

(iv) The use of channels of communication of the state postsecondary educational institution; and

(v) Funding sources that are otherwise available to any other student group through the state postsecondary educational institution.

(b) "State postsecondary educational institution" means a public postsecondary organization governed or supervised by the state board, the board of regents of the university of Idaho, a board of trustees of a community college established pursuant to the provisions of chapter 21, title 33, Idaho Code, or the state board for ~~professional-~~ career technical education.

SECTION 6. That Section 33-123, Idaho Code, be, and the same is hereby amended to read as follows:

33-123. EDUCATION FOR INMATES UNDER JURISDICTION OF DEPARTMENT OF CORRECTION. The state board for ~~professional-~~ career technical education, in cooperation with the state board of correction, shall have prepared suitable courses of study, including ~~professional-~~ career technical training, for prisoners held under the jurisdiction of the department of correction, and the state board of correction shall make arrangements carrying into effect all provisions for the education of prisoners who are under the jurisdiction of the department of correction to the extent possible within the limits of moneys appropriated by the state legislature. Such educational opportunities shall be limited to those inmates who have a need, such need to be determined by the staff of the department of correction, and can benefit from training, and those inmates whose degree of custody classification allows participation in the classroom environment provided.

SECTION 7. That Section 33-1002G, Idaho Code, be, and the same is hereby amended to read as follows:

33-1002G. ~~PROFESSIONAL-~~ CAREER TECHNICAL SCHOOL ADDED COST UNITS. School districts may establish ~~professional-~~ career technical schools that qualify for funding appropriated for the specific purpose of supporting the added cost of ~~professional-~~ career technical schools. These funds will be appropriated to the state board for ~~professional-~~ career technical education, to be expended by the division of ~~professional-~~ career technical education. The amount of the ~~professional-~~ career technical school added cost unit would be calculated as an additional .33 secondary units based on full-time equivalent average daily attendance at an approved ~~professional-~~ career technical school. In order for a school to qualify for funding as a ~~professional-~~ career technical school, it must make application to the division of ~~professional-~~ career technical education on or before

the first Friday in July for the following fiscal year. ~~For fiscal year 1999, applications must be made by May 1.~~ All school programs must have a ~~professional-~~ career technical component and meet at least four (4) of the five (5) following criteria:

(1) The school serves students from two (2) or more high school attendance zones with a minimum of fifteen percent (15%) of the total student body residing in attendance zones apart from the attendance zone of the majority of students.

(2) The school offers a majority of its class offerings as dual credit opportunities in conjunction with an accredited institution of higher education.

(3) All school programs involve at least one (1) supervised field experience.

(4) The school is administered and funded as a distinct school separate from schools that qualify for computation as regular secondary support units.

(5) The school is to be located at a separate site from regular high school facilities.

Hardship exemptions for the separate site requirement may be granted by the state board of education.

For funding purposes, students in attendance at a qualifying ~~professional-~~ career technical school will be reported in full or half days. The state board of education will develop rules that will determine funding in instances where students attend a ~~professional-~~ career technical school on a regular basis, but in increments of time that total less than 2.5 hours per day.

SECTION 8. That Section 33-1252, Idaho Code, be, and the same is hereby amended to read as follows:

33-1252. PROFESSIONAL STANDARDS COMMISSION -- MEMBERS -- APPOINTMENT -- TERMS. (1) A professional standards commission is hereby created in the department of education, consisting of eighteen (18) members, one (1) of whom shall be a member of the staff of the state department of education, and one (1) of whom shall be a member of the staff of the division of ~~professional-~~ career technical education, to be appointed by the state board of education. The members shall be representative of the teaching profession of the state of Idaho, and not less than seven (7) members shall be certificated classroom teachers in the public school system of the state and shall include at least one (1) teacher of exceptional children and at least one (1) teacher in pupil personnel services. Such expansion of membership on the professional standards commission shall not require reaffirmation of the codes and standards of ethics and rules of procedure used by the professional standards commission.

(2) Except for the member from the staff of the state department of education, and the member from the staff of the division of ~~professional-~~ career technical education, three (3) nominees for each position on the commission shall be submitted to the state superintendent of public instruction, for the consideration of the state board of education. Any state organization of teachers whose membership is open to all certificated teachers in the state may submit nominees for positions to be held by classroom teachers; the Idaho association of school superintendents may submit nominees for one (1) position, the Idaho association of secondary school principals may submit nominees for one (1) position; the Idaho association of elementary school principals may submit nominees for one (1) position; the Idaho school boards association may submit nominees for one (1) position; the Idaho association of special education administrators may submit nominees for one (1) position; the education departments of the private colleges of the state may submit nominees for one (1) position, the community colleges and the education de-

partments of the public institutions of higher education may submit nominees for two (2) positions, and the colleges of letters and sciences of the institutions of higher education may submit nominees for one (1) position.

(3) The state board of education shall appoint or reappoint members of the commission for terms of three (3) years.

SECTION 9. That Section 33-1629, Idaho Code, be, and the same is hereby amended to read as follows:

33-1629. AGRICULTURAL AND NATURAL RESOURCE EDUCATION PROGRAMS. (1) Idaho Quality Program Standards Incentive Grants.

(a) The board for ~~professional-~~ career technical education shall adopt and implement Idaho quality program standards for agricultural and natural resource education programs offered in any grade 9 through 12. Such standards shall apply to the areas of instruction, curriculum development, advisory committees, student development and community development. Such standards shall be used to assess the quality of local programs and to set goals for continued program improvement.

(b) The board for ~~professional-~~ career technical education shall establish and administer an incentive grant program for instructors of agricultural and natural resource education programs offered in any grade 9 through 12 where such programs meet or exceed the applicable Idaho quality program standards as determined by the board. A district may apply to the board, on behalf of an instructor, for a grant provided for in this subsection. The board shall develop an application form and criteria to judge each application for the grant program. Grant awards shall be made by the board to instructors of programs that meet or exceed the criteria established by the board. The maximum amount of an incentive grant as provided for in this section shall be ten thousand dollars (\$10,000).

(c) There is hereby created in the state treasury the quality program standards incentive grant fund, to which shall be credited all moneys both public and private that may be appropriated, allocated, donated, distributed to or otherwise provided for by law. Moneys in the fund shall be used exclusively for incentive grants as provided for in this subsection. Moneys in the fund shall be continuously appropriated for the purposes of this incentive grant program. All idle moneys in the fund shall be invested by the state treasurer in a like manner as provided for in section 67-1210, Idaho Code, with respect to other surplus or idle moneys in the state treasury. Interest earned on the investments shall be returned to the fund.

(d) The board for ~~professional-~~ career technical education shall in its annual budget request to the legislature request funding for the grant program provided for in this section.

(e) The board for ~~professional-~~ career technical education shall adopt rules to implement the grant program established by this subsection.

(2) Agricultural Education Program Start-Up Grants.

(a) The board for ~~professional-~~ career technical education shall establish and administer a start-up grant program for school districts and public charter schools to begin or to re-establish an agricultural and natural resource education program in any grade 9 through 12.

(b) The board shall develop an application form and criteria to judge each application for a start-up grant. Any school district or public charter school may apply for a start-up grant.

(c) There shall be no more than four (4) start-up grants awarded per school year. The maximum award for any one (1) start-up grant shall be twenty-five thousand dollars (\$25,000).

(d) There is hereby created in the state treasury the agricultural and natural resource education program start-up grant fund, to which shall

be credited all moneys both public and private that may be appropriated, allocated, donated, distributed to or otherwise provided for by law. Moneys in the fund shall be used exclusively for start-up grants as provided for in this subsection. Moneys in the fund shall be continuously appropriated for the purposes of this start-up grant program. All idle moneys in the fund shall be invested by the state treasurer in a like manner as provided for in section 67-1210, Idaho Code, with respect to other surplus or idle moneys in the state treasury. Interest earned on the investments shall be returned to the fund.

(e) The board for ~~professional-~~ career technical education shall in its annual budget request to the legislature request funding for the grant program provided for in this subsection.

(f) The board for ~~professional-~~ career technical education shall adopt rules to implement the grant program established by this subsection.

(3) The provisions of this section shall apply to agricultural and natural resource education programs provided for in grades 9 through 12.

SECTION 10. That Section 33-2110, Idaho Code, be, and the same is hereby amended to read as follows:

33-2110. TUITION. (1) All students of a community college shall pay tuition that shall be fixed annually by the board of trustees not later than the 1st day of August of each year. The tuition for full-time students taking normal academic courses provided by the college, who are residents of the district, shall be fixed at not less than three hundred fifty dollars (\$350) per annum, and may be increased by increments of not more than ten percent (10%) per annum to a maximum tuition of two thousand five hundred dollars (\$2,500) per annum. The tuition shall be, as nearly as is practicable, the annual costs of all elements of providing the courses of instruction, including interest on general obligation bonds, teaching, administration, maintenance, operation and depreciation of equipment and buildings, supplies and fuel, and other ordinary and necessary expenses of operation incurred in providing courses by the community college, provided that the tuition of students residing outside the district but within the county or counties wherein the district is located shall be fixed after taking into account moneys received by the community college district from any funds allocated to the community college from the educational funds of the state of Idaho, other than allocations for ~~professional-~~ career technical education; and provided that the tuition of students residing outside the district and the county but within the state of Idaho shall be fixed after taking into account moneys received from educational funds other than ~~professional-~~ career technical moneys, as referred to in this chapter, from the state of Idaho. Receipt of moneys, as hereinbefore provided in this section, shall be based upon the receipts from the sources referred to during the fiscal year preceding the fixing of the tuition. A student in a community college shall not be deemed a resident of the district or of the county or of the state of Idaho, unless that student is deemed a resident as defined by section 33-2110B, Idaho Code, for the district, county or state prior to the date of his first enrollment in the community college, and no student who was not a resident of the district, county or state shall gain residence while attending and enrolled in the community college. The residence of a minor shall be deemed to be the residence of his parents or parent or guardian. Tuition shall be payable in advance, but the board may, in its discretion, permit tuition to be paid in installments.

(2) The board of trustees shall also fix fees for laboratory and other special services provided by the community college and for special courses, including, but not limited to, night school, off-campus courses, summer school, ~~professional-~~ career technical courses, as otherwise provided in this chapter, and other special instruction provided by the community

college and nothing in this chapter shall be deemed to control the amount of tuition for special courses or fees for special services, as herein provided, but the same shall be, as nearly as reasonable, sufficient to cover the cost of all elements of providing courses as above defined.

(3) In this chapter, unless the context requires otherwise, the following definitions shall be uniformly applied. The application of these definitions shall be retroactive and prospective.

(a) "Fees" shall include all charges imposed by the governing body, to students, as a whole or individually, in excess of tuition. Student fees may be imposed for special courses, instruction, and service:

(i) "Special course or instruction fee" means those fees charged for any class or educational endeavor ~~which shall have~~ that has unique costs beyond a traditional college lecture class; for example, foreign language audio or visual instruction, specialized musical instruction, computer class, art class involving supplies or audiovisual equipment, ~~professional-~~ career technical instruction, laboratory class, remedial instruction, team teaching, satellite transmissions, outside instructor, professionally assisted instruction, etc.

(ii) "Special service fee" means those fees charged for activity, benefit, or assistance offered to students which is beyond traditional classroom instruction; for example, student government support, providing of student health staff or facilities, student union support, intramural and intercollegiate athletics, recreational opportunities, financial aid services, graduation expense, automobile parking, student yearbook/publication, insurance, registration, noncapital library user fee, etc.

Fees shall not be imposed for any capital improvements except as specifically authorized in chapter 21, title 33, Idaho Code.

(b) "Tuition" ~~shall~~ means a sum charged students for cost of college instruction and shall include costs associated with maintenance and operation of physical plant, student services and institutional support.

SECTION 11. That Section 33-2202, Idaho Code, be, and the same is hereby amended to read as follows:

33-2202. STATE BOARD FOR ~~PROFESSIONAL-~~ CAREER TECHNICAL EDUCATION -- POWERS AND DUTIES. (1) The state board of education is hereby designated as the state board for ~~professional-~~ career technical education for the purpose of carrying into effect the provisions of the federal act, known as the Smith-Hughes Act, amendments thereto, and any subsequent acts now or in the future enacted by the Congress affecting vocational education, and is hereby authorized to cooperate with the United States office of education, vocational division, or any other agency of the United States designated to administer such legislation, in the administration and enforcement of the provisions of said act, or acts, and to exercise such powers and perform such acts as are necessary to entitle the state of Idaho to receive the benefits of the same, and to execute the laws of the state of Idaho relative to ~~professional-~~ career technical education; to administer the funds provided by the federal government and the state of Idaho under the provisions of this chapter for promotion of education in agricultural subjects, trade and industrial subjects, home economics subjects and other subjects authorized by the board. Incident to the other powers and duties of the board for ~~professional-~~ career technical education, the board may hold title to real property.

(2) As used in this title, unless otherwise specifically defined, the term "~~professional-career~~ technical education" means secondary, postsecondary and adult courses, programs, training and services administered by the division of ~~professional-~~ career technical education for occupations

or careers that require other than a baccalaureate, master's or doctoral degree. The courses, programs, training and services include, but are not limited to, vocational, technical and applied technology education. They are delivered through the ~~professional-~~ career technical delivery system of public secondary and postsecondary schools and colleges.

SECTION 12. That Section 33-2203, Idaho Code, be, and the same is hereby amended to read as follows:

33-2203. FURTHER POWERS OF BOARD. ~~It~~ The board shall have full power to formulate plans for the promotion of ~~professional-~~ career technical education in such subjects as are an essential and integral part of the public school system of the state of Idaho, and to provide for the preparation of teachers of such subjects. It shall have full power to fix the compensation of such officials and assistants as may be necessary to administer the federal act herein referred to, and to pay such compensation and other necessary expenses of administration from funds appropriated in this chapter and from money received under the provisions of the federal act. It shall have authority to make studies and investigations relating to ~~professional-~~ career technical education in such subjects, to promote and aid in the establishment of local communities of schools, departments or classes, giving training in such subjects; to cooperate with the local communities in the maintenance of such schools, departments or classes; to prescribe qualifications for teachers, directors and supervisors for such subjects, and to have full authority to provide for the certification of such teachers, directors and supervisors, subject to the laws and rules governing the state board of education; to cooperate in the maintenance of classes supported and controlled by the public for the preparation of teachers, directors and supervisors of such subjects, or to maintain such classes under its own direction and control; and to establish and determine by general rule the qualifications to be possessed by persons engaged in the training of ~~professional-~~ career technical teachers.

SECTION 13. That Section 33-2204, Idaho Code, be, and the same is hereby amended to read as follows:

33-2204. MEETINGS OF STATE BOARD. The state board of education, when acting as the state board for ~~professional-~~ career technical education, shall hold four (4) regular meetings annually at such time and place as may be directed by said board, but special meetings may be called at any time and at a place designated in said call by the president.

SECTION 14. 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-~~ CAREER 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-~~ career technical education, who shall be known as the administrator of ~~professional-~~ career technical education. The administrator shall designate, by and with the advice and consent of the state board for ~~professional-~~ career 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-~~ career technical education.

(2) The administrator of ~~professional-~~ career technical education shall also carry into effect such rules as the state board for ~~professional-~~ career technical education may adopt, and shall coordinate all efforts in

~~professional- career~~ technical education approved by the board with the executive secretary, and shall prepare such reports concerning the condition of ~~professional- career~~ technical education in the state as the state board for ~~professional- career~~ technical education may require.

(3) The division of ~~professional- career~~ technical education shall coordinate with the Idaho digital learning academy to provide approved online ~~professional- career~~ technical education courses to any Idaho school district.

(4) The division of ~~professional- career~~ technical education may provide incentives to Idaho public colleges and universities offering ~~professional- career~~ 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- career~~ 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.

SECTION 15. That Section 33-2206, Idaho Code, be, and the same is hereby amended to read as follows:

33-2206. REPORTS. The state board for ~~professional- career~~ technical education shall make annually to the governor and legislature a report of all moneys expended for ~~professional- career~~ technical education both from state and federal funds, and shall include such annual report in the annual report of the state board of education.

SECTION 16. That Section 33-2207, Idaho Code, be, and the same is hereby amended to read as follows:

33-2207. CUSTODY AND DISBURSEMENT OF MONEYS APPROPRIATED. The state treasurer is hereby designated and appointed custodian of all moneys received by the state from the appropriation made by said act of ~~C~~ongress, and he is authorized to receive and to provide for the proper custody of the same and to make disbursement thereof in the manner provided in the said act, and for the purposes therein specified. He shall also pay out any moneys appropriated by the state of Idaho for the promotion of ~~professional- career~~ technical education in accordance with the provisions of sections 33-2201 through 33-2207, Idaho Code, and upon the order of the state board for ~~professional- career~~ technical education.

SECTION 17. That Section 33-2208, Idaho Code, be, and the same is hereby amended to read as follows:

33-2208. EASTERN IDAHO TECHNICAL COLLEGE CREATED. There is hereby established in Bonneville ~~C~~ounty, Idaho, a postsecondary technical college to be designated and known as the Eastern Idaho Technical College, consisting of such ~~professional- career~~ technical training programs, including academic courses necessarily included in such programs as the state board for ~~professional- career~~ technical education may, from time to time, authorize.

SECTION 18. That Section 33-2209, Idaho Code, be, and the same is hereby amended to read as follows:

33-2209. COLLEGE IS BODY POLITIC AND CORPORATE -- SEAL -- POWER TO SUE AND BE SUED. The Eastern Idaho Technical College is hereby declared to be a body politic and corporate, with its own seal and having power to sue and be sued in its own name. The general supervision, government and control of the Eastern Idaho Technical College is vested in the state board for ~~professional-~~ career technical education of the state of Idaho.

SECTION 19. That Section 33-2210, Idaho Code, be, and the same is hereby amended to read as follows:

33-2210. PROGRAMS AND COURSES OFFERED -- CERTIFICATES AND DEGREES. The Eastern Idaho Technical College shall offer and give instruction in ~~professional-~~ career technical programs or courses as approved by the state board for ~~professional-~~ career technical education. Such courses or programs may be given or conducted on or off campus, or in night school, summer school, or by extension courses. The state board for ~~professional-~~ career technical education shall grant certificates or associate of applied science degrees for successful completion of courses or programs prescribed by the college.

SECTION 20. That Section 33-2211, Idaho Code, be, and the same is hereby amended to read as follows:

33-2211. POWERS OF STATE BOARD FOR ~~PROFESSIONAL-~~ CAREER TECHNICAL EDUCATION. The state board for ~~professional-~~ career technical education shall have the power:

(1-) To adopt rules for its own government, the government of the Eastern Idaho Technical College and any ~~professional-~~ career technical or vocational rehabilitation program, including programs under chapters 22 and 23, title 33, Idaho Code;

(2-) To employ professional and nonprofessional persons and to prescribe their qualifications;

(3-) To acquire and hold, and to dispose of, real and personal property, and to construct, repair, remodel and remove buildings;

(4-) To contract for the acquisition, purchase or repair of buildings, in the manner prescribed for trustees of school districts;

(5-) To dispose of real and personal property in the manner prescribed for trustees of school districts;

(6-) To convey and transfer real property of the college upon which no buildings used for instruction are situated, to nonprofit corporations, school districts, community college housing commissions, counties or municipalities, with or without consideration; to rent real or personal property for the use of the college, its students or faculty, for such terms as may be determined by the state board for ~~professional-~~ career technical education; and to lease real or personal property of the college not actually in use for instructional purposes on such terms as may be determined by the state board for ~~professional-~~ career technical education;

(7-) To acquire, hold, and dispose of, water rights;

(8-) To accept grants or gifts of money, materials, or property of any kind from any governmental agency, or from any person, firm, or association, on such terms as may be determined by the grantor;

(9-) To cooperate with any governmental agency, or any person, firm or association in the conduct of any educational program; to accept grants from any source for the conduct of such program, and to conduct such program on, or off, campus;

(10-) To employ a president of the college and, with his advice, to appoint such assistants, instructors, specialists and other employees as are required for the operation of the college; to fix salaries and prescribe duties; and to remove the president or other employees in accordance with the policies and rules of the state board of education;

(11-) With the advice of the president, to prescribe the courses and programs of study, the requirements for admission, the time and standards for completion of such courses and programs, and to grant certificates or associate of applied science degrees for those students entitled thereto;

(12-) To employ architects or engineers in planning the construction, remodeling or repair of any building or property and, whenever no other agency is designated by law so to do, to let contracts for such construction, remodeling or repair and to supervise the work thereof; and

(13-) To have at all times, general supervision and control of all property, real and personal, appertaining to the college, and to insure the same.

SECTION 21. That Section 33-2212, Idaho Code, be, and the same is hereby amended to read as follows:

33-2212. CREATION OF ADVISORY COUNCIL -- MEMBERS -- COMPENSATION. The state board for ~~professional-~~ career technical education may appoint an advisory council consisting of not less than twelve (12) nor more than fifteen (15) persons to offer counsel and advice in the organization, establishment and conduct of the Eastern Idaho Technical College. Members of the council will serve without salary but shall be compensated as provided by section 59-509(b), Idaho Code. Members of said council shall be appointed from as nearly as is practicable the vocational area to be served by the Eastern Idaho Technical College as determined by the state board for ~~professional-~~ career technical education.

SECTION 22. That Section 33-2303, Idaho Code, be, and the same is hereby amended to read as follows:

33-2303. POWERS OF BOARD IN CARRYING OUT PROVISIONS. (1) The board heretofore designated as the state board for ~~professional-~~ career technical education is hereby designated as the state board for the purpose of providing for the vocational rehabilitation of persons with disabilities, other than those who are legally blind, and is empowered and directed to cooperate in the administration of said act of Congress; to prescribe and provide such courses of vocational services as may be necessary for the vocational rehabilitation of persons with disabilities, other than those who are legally blind, and provide for the supervision of such services; to appoint such assistants as may be necessary to administer this act and said act of Congress in this state; to fix the compensation of such assistants and to direct the disbursement and administer the use of all funds provided by the federal government and the state of Idaho for the vocational rehabilitation of such persons.

(2) In order to provide vocational rehabilitation services, the board for ~~professional-~~ career technical education may enter into, or authorize a state vocational rehabilitation agency over which it has oversight to enter into, agreements with any person, corporation or association, approved by the board for ~~professional-~~ career technical education to provide such services.

(3) Any person, corporation or association may make application to the board for ~~professional-~~ career technical education for approval and certification to provide vocational rehabilitation services. The board for ~~professional-~~ career technical education may either grant or deny certification or revoke certification previously granted after investigation of the applicant, in accordance with standards as set forth in rules

promulgated by the board for ~~professional-~~ career technical education, and consistent with national accreditation bodies. The board for ~~professional-~~ career technical education may authorize a state vocational rehabilitation agency over which it has oversight to provide the approvals or certifications described in this subsection.

SECTION 23. That Section 33-2306, Idaho Code, be, and the same is hereby amended to read as follows:

33-2306. REPORT OF STATE BOARD. The state board for ~~professional-~~ career technical education shall make annually to the governor and legislature a report of all moneys expended for the vocational rehabilitation of persons with disabilities, other than those who are legally blind, both from state and federal funds, and shall include such annual report in the annual report of the state board of education.

SECTION 24. That Section 33-3726, Idaho Code, be, and the same is hereby amended to read as follows:

33-3726. HIGHER EDUCATION STABILIZATION FUND. There is hereby created in the state treasury a fund to be known as the higher education stabilization fund. The higher education stabilization fund shall consist of three (3) separate accounts as follows:

(1) An account designated the strategic interest account shall consist of interest earnings from the investment of moneys deposited with the state treasurer into unrestricted current fund 0650-00, as designated by the state controller in the statewide accounting and reporting system. Annually on July 1, or as soon thereafter as is practicable, the state controller shall transfer such interest earnings to the strategic interest account. All moneys so transferred shall be expended for the maintenance, use and support of institutions that have deposited moneys into unrestricted current fund 0650-00. All such expenditures shall be subject to legislative appropriation. Institutions shall receive a pro rata share of a legislative appropriation based upon the amount of moneys any such institution has deposited into unrestricted current fund 0650-00 in the current fiscal year compared to the total amount deposited by all institutions in the current fiscal year. Interest earned from the investment of moneys in the strategic interest account shall be retained in the strategic interest account.

(2) An account designated the surplus stabilization account shall consist of any other moneys made available through legislative transfers, appropriations or otherwise provided by law, or from any other governmental source. All such moneys shall be expended for the maintenance, use and support of institutions named in section 33-3803, Idaho Code. Such expenditures shall be made subject to legislative appropriation to the state board of education for college and universities. Distribution of such moneys to institutions shall be based upon the state board of education's established practices for the allocation of moneys to such institutions. Interest earned from the investment of moneys in this surplus stabilization account shall be retained in this surplus stabilization account.

(3) An account designated the surplus stabilization account for Eastern Idaho Technical College, North Idaho College, College of Southern Idaho and College of Western Idaho shall consist of any other moneys made available through legislative transfers, appropriations or otherwise provided by law, or from any other governmental source. All such moneys shall be expended for the maintenance, use and support of Eastern Idaho Technical College, North Idaho College, College of Southern Idaho and College of Western Idaho. Such expenditures shall be made subject to legislative appropriation to Eastern Idaho Technical College, through the appropriation to the division of ~~professional-~~ career technical education, and to the community colleges.

Distribution of such moneys shall be based upon established practices for the allocation of moneys to Eastern Idaho Technical College through the division of ~~professional-~~ career technical education, or the state board of education's established practices for the allocation of moneys to the community colleges. Interest earned from the investment of moneys in this surplus stabilization account shall be retained in this surplus stabilization account.

SECTION 25. That Section 33-3727, Idaho Code, be, and the same is hereby amended to read as follows:

33-3727. MILITARY EDUCATION, TRAINING AND SERVICE -- AWARD OF ACADEMIC CREDIT -- DEVELOPMENT OF POLICIES. Notwithstanding the provisions of section 33-107(6)(b), Idaho Code, the state board of education, the board of regents of the university of Idaho, a board of trustees of a community college established pursuant to the provisions of section 33-2106, Idaho Code, and the state board for ~~professional-~~ career technical education shall develop policies relating to the award of academic credit for education, training or service completed by an individual as a member of the armed forces or reserves of the United States, the national guard of any state, the military reserves of any state or the naval militia of any state, where such education, training or service is determined to satisfy such established policies. The boards shall work cooperatively with one another and with other state agencies as needed in the development of such policies. The boards are authorized to adopt rules as necessary for the administration of the provisions of this section.

SECTION 26. That Section 33-4303, Idaho Code, be, and the same is hereby amended to read as follows:

33-4303. IDAHO OPPORTUNITY SCHOLARSHIP. (1) The purposes of this section are to:

- (a) Recognize that all Idaho citizens benefit from an educated citizenry;
- (b) Increase individual economic vitality and improve the overall quality of life for many of Idaho's citizens;
- (c) Provide access to eligible Idaho postsecondary education through funding to remove financial barriers;
- (d) Increase the opportunity for economically disadvantaged Idaho students; and
- (e) Incentivize students to complete a postsecondary education degree or certificate.

(2) For the purposes of this section, the following definitions shall apply:

- (a) "Educational costs" means the dollar amount determined annually by the state board of education as necessary for student tuition, fees, books and such other expenses reasonably related to attendance at an eligible Idaho postsecondary educational institution.
- (b) "Eligible Idaho postsecondary educational institution" means: A a public postsecondary organization governed or supervised by the state board, the board of regents of the university of Idaho, a board of trustees of a community college established pursuant to the provisions of chapter 21, title 33, Idaho Code, or the state board for ~~professional-~~ career technical education or any educational organization located in Idaho that is:
 - (i) Operated privately;
 - (ii) Classified as not-for-profit under state law;

(iii) Under the control of an independent board and not directly controlled or administered by a public or political subdivision; and

(iv) Accredited by an organization recognized by the state board as provided in section 33-2402, Idaho Code.

(c) "Eligible student" means a student who:

(i) Is an Idaho resident as defined in section 33-3717B, Idaho Code;

(ii) Has or will graduate from an accredited high school or its equivalent in Idaho as determined by the state board;

(iii) Has enrolled or applied to an eligible Idaho postsecondary educational institution;

(iv) Is a postsecondary undergraduate student who has not previously completed a baccalaureate (bachelor's) degree or higher; and

(v) Meets need and merit criteria as set by the state board.

"Eligible student" also means a student who has met the eligibility requirements and was awarded an opportunity scholarship prior to June 30, 2014. Continued eligibility shall be based upon the eligibility requirements at the time of the original award.

(d) "Opportunity scholarship program" means the scholarship program described in this section and in the rules established by the state board.

(e) "Shared model of responsibility" means a model set by the board to determine the required and expected contributions of the student, the student's family and available federal financial aid.

(f) "State board" means the state board of education.

(3) The state board shall promulgate rules to determine student eligibility, academic and financial eligibility, a process for eligible students to apply, amount of awards, how eligible students will be selected and when the awards shall be made, as well as other rules necessary for the administration of this section.

(4) An eligible student must:

(a) Apply or have applied for federal student financial assistance available to an eligible student who will attend or is enrolled in an eligible Idaho postsecondary educational institution; and

(b) Meet need and merit criteria established by the state board in rule.

(5) Funds that are available for the opportunity scholarship program shall be used to provide scholarships based upon a shared model of responsibility between the scholarship recipient and the recipient's family, the federal government and the participating eligible Idaho postsecondary educational institution that the recipient attends for covering the educational costs.

(6) The opportunity scholarship award shall not exceed the actual educational costs at the eligible Idaho postsecondary educational institution that the student attends. The amount of scholarship shall not exceed the educational costs established by the state board.

(7) Award payments shall be made annually to an eligible Idaho postsecondary educational institution. In no instance may the entire amount of an award be paid to or on behalf of such student in advance.

(8) If an eligible student becomes ineligible for a scholarship under the provisions of this chapter, or if a student discontinues attendance before the end of any semester, quarter, term or equivalent, covered by the award after receiving payment under this chapter, the eligible Idaho postsecondary educational institution shall remit, up to the amount of any payments made under this program, any prorated tuition or fee balances to the state board.

(9) There is hereby created an account in the state treasury to be designated the opportunity scholarship program account.

(a) The account shall consist of moneys appropriated to the account by the legislature, moneys contributed to the account from other sources and the earnings on such moneys. The executive director of the state board may receive on behalf of the state board any moneys or real or personal property donated, bequeathed, devised or conditionally granted to the state board for purposes of providing funding for such account. Moneys received directly or derived from the sale of such property shall be deposited by the state treasurer in the account.

(b) Earnings from moneys in the account or specified gifts shall be distributed annually to the state board to implement the opportunity scholarship program as provided for under the provisions of this chapter.

(c) All moneys placed in the account and earnings thereon are hereby perpetually appropriated to the state board for the purpose described in subsection (9) (b) of this section. All expenditures from the account shall be paid out in warrants drawn by the state controller upon presentation of the proper vouchers. Up to fifty thousand dollars (\$50,000) of the annual earnings distribution to the state board may be used by the state board annually for administrative costs related to the implementation of the provisions of this chapter.

(d) Allowable administrative costs include, but are not limited to, operating expenses for the implementation and maintenance of a database, operating expenses to administer the program, personnel costs necessary to administer the program and costs related to promoting awareness of the program.

(e) Any unused annual funds shall be deposited into the opportunity scholarship program account.

(f) Pending use, surplus moneys in the account shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code. Interest earned on the investments shall be returned to the account.

(10) The effectiveness of the Idaho opportunity scholarship will be evaluated by the state board on a regular basis. This evaluation will include annual data collection as well as longer-term evaluations.

SECTION 27. That Section 33-4603, Idaho Code, be, and the same is hereby amended to read as follows:

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-~~ career 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-~~ career 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.

SECTION 28. That Section 33-4803, Idaho Code, be, and the same is hereby amended to read as follows:

33-4803. DEFINITIONS. As used in this chapter:

(1) "Educational segments" are, individually, the public elementary and secondary school system, the Idaho bureau of educational services for the deaf and the blind, the ~~professional-~~ career technical education system, the commission for libraries, the state historical society, Idaho public television, the community colleges, the four-year colleges and universities, the state department of education and the office of the state board of education.

(2) "Libraries" means district, city, school/community libraries, and the commission for libraries as described in chapters 25, 26 and 27, title 33, Idaho Code.

(3) "Technology" means all present and future forms of computer hardware, computer software and services used or required for automated data processing, computer-related office automation or telecommunications.

(4) "Telecommunications" means all present and future forms of hardware, software or services used or required for transmitting voice, data, video or images over a distance.

SECTION 29. That Section 33-4901, Idaho Code, be, and the same is hereby amended to read as follows:

33-4901. COOPERATION. In conjunction with its supervision of traffic on public highways, the Idaho transportation department is directed to cooperate with the division of ~~professional-~~ career technical education in its establishment of a motorcycle rider safety program for the state of Idaho.

SECTION 30. That Section 33-4902, Idaho Code, be, and the same is hereby amended to read as follows:

33-4902. MOTORCYCLE SAFETY PROGRAM. (1) The division of ~~professional-~~ career technical education shall develop standards for, establish and administer the Idaho motorcycle safety program.

(2) The division of ~~professional-~~ career technical education shall establish standards for the motorcycle rider training course, including standards for course curriculum and student evaluation and testing, and shall meet or exceed established national standards for motorcycle rider training courses in effect as of September 1, 1994.

(3) The program shall include activities to increase motorcyclists' alcohol and drug effects awareness, motorcycle rider improvement efforts, program promotion activities, and other efforts to enhance motorcycle safety through education, including enhancement of public awareness of motorcycles.

(4) The administrator of the division of ~~professional-~~ career technical education shall appoint a program coordinator to oversee and direct the program.

(5) The division of ~~professional-~~ career technical education shall establish standards for the training and approval of motorcycle rider training instructors and skills examiners which shall meet or exceed established national standards for such instructors and skills examiners in effect as of September 1, 1994.

SECTION 31. That Section 33-4903, Idaho Code, be, and the same is hereby amended to read as follows:

33-4903. IMPLEMENTING AUTHORITY. (1) The state board for ~~professional-~~ career technical education shall adopt rules which are necessary to carry out the motorcycle safety program.

(2) The division of ~~professional-~~ career technical education may enter into contracts with public or private entities for course delivery and for the provision of services or materials necessary for administration and implementation of the program.

(3) The division of ~~professional-~~ career technical education may offer motorcycle rider training courses directly and may approve courses offered by public or private entities as authorized program courses if they are administered and taught in full compliance with standards established for the state program.

(4) The division of ~~professional-~~ career technical education may establish reasonable enrollment fees to be charged for persons who participate in a motorcycle rider training course.

(5) The division of ~~professional-~~ career technical education may utilize available program funds to defray expenses in offering motorcycle rider training courses and may reimburse entities which offer approved courses for the expenses incurred in offering the courses in order to minimize any course enrollment fee charged to the students.

SECTION 32. That Section 33-4904, Idaho Code, be, and the same is hereby amended to read as follows:

33-4904. MOTORCYCLE SAFETY PROGRAM FUND. (1) The motorcycle safety program fund is established in the state treasury and appropriated on a continual basis to the division of ~~professional-~~ career technical education which shall administer the moneys. Money in the fund shall only be used for administration and implementation of the program, including reimbursement of entities which offer approved motorcycle rider training courses.

(2) At the end of each fiscal year, moneys remaining in the motorcycle safety program fund shall be retained in said fund and shall not revert to any other general fund. The interest and income earned on money in the fund, after deducting any applicable charges, shall be credited to and remain in the motorcycle safety program fund.

(3) Revenue credited to the fund shall include one dollar (\$1.00) of each fee for a class A, B, C or D driver's license as provided in section 49-306, Idaho Code.

(4) Revenue credited to the fund shall include amounts collected for each motorcycle safety program fee imposed pursuant to section 49-453, Idaho Code.

SECTION 33. That Section 33-4905, Idaho Code, be, and the same is hereby amended to read as follows:

33-4905. ADVISORY COMMITTEE. The administrator of the division of ~~professional-~~ career technical education shall establish a program advisory committee consisting of five (5) persons representing various interests in motorcycle safety including, but not limited to, motorcycle riding enthusiasts, dealers and law enforcement personnel. Committee members shall advise the program coordinator in developing, establishing and maintaining the program. The committee shall monitor program implementation and report to the administrator as necessary with recommendations. Members of the committee shall serve without compensation but may be reimbursed for their reasonable expenses while engaged in committee business.

SECTION 34. That Section 33-4906, Idaho Code, be, and the same is hereby amended to read as follows:

33-4906. ANNUAL REPORT ON THE PROGRAM. The division of ~~professional-~~ career technical education shall prepare a public report annually. The report shall be completed with the assistance of the program coordinator and the program advisory committee. The report shall include the number and location of various courses offered, the number of instructors approved, the number of students trained in various courses, other information about program implementation as deemed appropriate, and an assessment of the overall impact of the program on motorcycle safety in the state. The report shall also provide a complete accounting of revenue receipts of the motorcycle safety program fund and of all moneys expended under the program.

SECTION 35. That Section 33-5202A, Idaho Code, be, and the same is hereby amended to read as follows:

33-5202A. DEFINITIONS. As used in this chapter, unless the context requires otherwise:

- (1) "Authorized chartering entity" means any of the following:
 - (a) A local board of trustees of a school district in this state;
 - (b) The public charter school commission created pursuant to the provisions of this chapter;
 - (c) An Idaho public college, university or community college;
 - (d) A private, nonprofit Idaho-based, nonsectarian college or university that is accredited by the same organization that accredits Idaho public colleges and universities.

(2) "Charter" means the grant of authority approved by the authorized chartering entity to the board of directors of the public charter school.

(3) "Founder" means a person, including employees or staff of a public charter school, who makes a material contribution toward the establishment of a public charter school in accordance with criteria determined by the board of directors of the public charter school, and who is designated as such at the time the board of directors acknowledges and accepts such contribution. The criteria for determining when a person is a founder shall not discriminate against any person on any basis prohibited by the federal or state constitutions or any federal, state or local law. The designation of a person as a founder, and the admission preferences available to the children of a founder, shall not constitute pecuniary benefits.

(4) "Performance certificate" means a fixed-term, renewable certificate between a public charter school and an authorized chartering entity that outlines the roles, powers, responsibilities and performance expectations for each party to the certificate.

(5) "Petition" means the document submitted by a person or persons to the authorized chartering entity to request the creation of a public charter school.

(6) "~~Professional-Career~~ technical regional public charter school" means a public charter secondary school authorized under this chapter to provide programs in ~~professional- career~~ technical education which meet the standards and qualifications established by the division of ~~professional- career~~ technical education. A ~~professional- career~~ technical regional public charter school may be approved by an authorized chartering entity and, by the terms of its charter, shall operate in association with at least two (2) school districts. Notwithstanding the provisions of section 33-5205(3)(j), Idaho Code, participating school districts need not be contiguous.

(7) "Public charter school" means a school that is authorized under this chapter to deliver public education in Idaho.

(8) "Traditional public school" means any school existing or to be built that is operated and controlled by a school district in this state.

(9) "Virtual school" means a school that delivers a full-time, sequential program of synchronous and/or asynchronous instruction primarily through the use of technology via the internet in a distributed environment. Schools classified as virtual must have an online component to their school with online lessons and tools for student and data management.

SECTION 36. That Section 33-5215, Idaho Code, be, and the same is hereby amended to read as follows:

33-5215. ~~PROFESSIONAL- CAREER~~ TECHNICAL REGIONAL PUBLIC CHARTER SCHOOL. (1) A ~~professional- career~~ technical regional public charter school is hereby declared to be a public charter school and as such, the provisions of chapter 52, title 33, Idaho Code, shall apply to each ~~professional- career~~ technical regional public charter school in the same manner and to the same extent as the provisions of charter school law apply to other public charter schools, with the exception of certain conditions and applications as specifically provided in this section.

(2) In addition to the approval provisions of this chapter, approval of a ~~professional- career~~ technical regional public charter school by an authorized chartering entity shall not be final until the petition has also been reviewed by the division of ~~professional- career~~ technical education.

(3) Funding for a ~~professional- career~~ technical regional public charter school shall be the same as provided in section 33-5208, Idaho Code, except that:

(a) The salary-based apportionment for a ~~professional- career~~ technical regional public charter school shall be the statewide average in-

dex for public charter schools. Such salary-based apportionment may be used for payment of contracted services or for direct hire of staff;

(b) The board of directors may contract for the services of certified and noncertificated personnel, to procure the use of facilities and equipment, and to purchase materials and equipment, which in the judgment of the board of directors is necessary or desirable for the conduct of the business of the ~~professional-~~ career technical regional public charter school; and

(c) Transportation support shall be paid to the ~~professional-~~ career technical regional public charter school in accordance with the provisions of chapter 15, title 33, Idaho Code.

(4) A ~~professional-~~ career technical regional public charter school shall provide assurances in state attendance reports that it has verified attendance reports, which generate ADA with its participating school districts, to make certain that the districts and the charter school do not duplicate enrollment or ADA claims.

SECTION 37. That Section 39-5002, Idaho Code, be, and the same is hereby amended to read as follows:

39-5002. DEFINITIONS. For purposes of this chapter:

(1) "Displaced homemaker" means a person who:

(a) Has worked in the home providing household services for family members, but who has lost the primary source of economic support and who must gain employment skills in order to earn a living; or

(b) Is a single parent with primary financial and custodial responsibility for supporting dependent children and who must gain employment skills in order to earn a living.

(2) "Administrator" means the administrator of the division of ~~professional-~~ career technical education.

SECTION 38. That Section 39-5009, Idaho Code, be, and the same is hereby amended to read as follows:

39-5009. DISPLACED HOMEMAKER ACCOUNT -- FEES ON FILING OF DIVORCE ACTION. (1) There is hereby created in the state operating fund the displaced homemaker account. All fees collected pursuant to subsection (2) of this section shall be deposited in the account. All moneys in the account shall be available for appropriation to the state board for ~~professional-~~ career technical education for the purposes of this chapter.

(2) In addition to any other fees imposed for filing an action for divorce in the district court, there shall be collected a fee of twenty dollars (\$20.00) for each divorce action. The clerk of the district court shall remit such fees, separately identified, to the state treasurer for deposit in the displaced homemaker account. Fees shall be remitted to the state treasurer at the same time as other court fees are remitted.

SECTION 39. That Section 46-314, Idaho Code, be, and the same is hereby amended to read as follows:

46-314. EDUCATIONAL ENCOURAGEMENT. The adjutant general of the Idaho national guard is authorized to encourage recruitment and retention of non-technician national guardsmen by providing incentive payments as set forth hereinafter. The adjutant general may authorize the payment of not more than one hundred percent (100%) of student registration fees or tuition for each semester for each member of the active Idaho national guard who attends a public or private institution of higher education in Idaho, a ~~vocational~~ career technical education school, or a community college organized under the provisions of chapter 21, title 33, Idaho Code. To be eligible to receive

benefits, an individual must be a member in good standing of the active Idaho national guard at the beginning of and throughout the entire semester for which benefits are received.

SECTION 40. 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-~~ career 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 41. 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-~~ career 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-~~ career 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-~~ career technical education;

(c) Until September 1, 1998.

(8) At the discretion of the department, an alternate skills test for the motorcycle endorsement may be administered when the endorsement is for operation of a three-wheeled motorcycle only.

(9) The department or its authorized agents may refuse to give an applicant a skills test if there are reasonable grounds to believe that the safety of the applicant, public, or the examiner would be jeopardized by doing so. Reasonable grounds would include, but not be limited to, the applicant's inability to pass the vision screening, written tests, or a statement by a licensed physician stating the applicant is not physically able to drive a motor vehicle.

(10) The department or its authorized agents may deny issuance or renewal of a driver's license or endorsement to any applicant who does not meet the licensing requirements for the class of driver's license or endorsement being renewed or issued.

(11) Skills examinations for seasonal driver's licenses shall be waived.

SECTION 42. That Section 49-314, Idaho Code, be, and the same is hereby amended to read as follows:

49-314. LOCAL EXAMINERS APPOINTED BY DEPARTMENT. (1) The department shall appoint the sheriff in each county and may appoint any deputy sheriff, chief of police, or other officials or private citizens whom the department deems qualified as examiners, who shall be agents of the department and shall perform duties prescribed in this title.

(2) The department shall appoint at least one (1) employee in the department who shall be skilled and highly qualified in the method of giving driver's license examinations, who shall have authority, and it shall be this person's duty to instruct the examiners appointed by the department in the method of giving driver's license examinations and acquaint them with the use of equipment and forms needed in examining applicants for licensure.

(3) Agents of the department appointed to administer skills tests for class A, B or C driver's licenses must be certified according to 49 CFR part 383.

(4) Agents of the department appointed to administer the skills test for a motorcycle endorsement shall be certified by the division of ~~professional-~~ career technical education.

(5) Agents of the department to administer skills tests for class D driver's licenses shall be certified by the department.

SECTION 43. That Section 54-1007, Idaho Code, be, and the same is hereby amended to read as follows:

54-1007. ISSUANCE OF LICENSES -- RECIPROCITY. (1) The administrator shall issue licenses to such persons as have by examination shown themselves to be fit, competent and qualified to engage in the trade of journeyman electrician, specialty electrician or master electrician as defined in section 54-1003A, Idaho Code, and to such persons, firms, partnerships, associations or corporations as have shown themselves to be fit, competent and qualified to engage in the business of electrical contracting or specialty electrical contracting as defined in section 54-1003A, Idaho Code.

(2) An apprentice electrician, as defined in section 54-1003A, Idaho Code, may take the journeyman's examination if he has completed the required related instruction for electrical apprentices as approved by the Idaho state board for ~~professional-~~ career technical education, completion of which shall be evidenced by a certificate from an approved provider, and has worked the number of hours as prescribed by the Idaho electrical board, provided that for all the time he is claiming to have worked as an apprentice electrician, the apprentice shall have been registered with the division of building safety as an apprentice. The electrical board may, by rule, fix the apprentice registration fee, in an amount not to exceed the costs of issuing apprentice registration certificates and enforcing the apprentice registration provisions of this chapter, and may also by rule establish requirements relative to the manner of registration renewal, verification of employment, the number of instructional hours completed, continuation training and the number of hours worked.

(a) All verification of employment forms submitted by an apprentice shall be entered into and maintained in the apprentice's file by the division of building safety. The division of building safety shall provide the apprentice online access to this information.

(b) An apprentice who has completed the number of instructional hours and has not taken or passed the journeyman's examination within two (2) years of completion of the instructional training hours, shall provide proof of continuation training as set by rule of the electrical board.

(c) An apprentice who has not advanced in apprenticeship training for a period of two (2) years shall complete continuation training as set by rule of the electrical board.

(3) Any person who has worked as a licensed journeyman for a period of not less than four (4) years and who has worked the number of hours as prescribed by rule of the board as a licensed journeyman electrician shall be considered as qualified to apply for a master electrician's license in this state. The Idaho electrical board, in establishing by rule the requirements for a master electrician's license, shall also take into account the applicant's performance as a journeyman electrician.

(4) Any person with out-of-state experience who has worked as a journeyman electrician or as an apprentice electrician for a period of four (4) years, and who has met such other requirements as established by rule of the board, shall be considered as qualified to apply for a journeyman electrician's license in this state.

(5) To the extent that other states which that provide for the licensing of electricians provide for similar action, the administrator, on the recommendation of the Idaho electrical board, may grant licenses to electricians licensed by such other states, upon payment by the applicant of the required fee and upon furnishing proof to the board that the applicant has qualifications at least equal to those provided herein for applicants for written examinations. Applicants who qualify for a license under this subsection are not required to take a written examination.

SECTION 44. That Section 54-5003, Idaho Code, be, and the same is hereby amended to read as follows:

54-5003. DEFINITIONS. As used in this chapter:

(1) "Heating, ventilation and air conditioning (HVAC)" means and includes the business, trade, practice or work, materials and fixtures used in the design, construction, installation, improvement, extension and alteration of all piping, venting, ductwork, appliances and appurtenances in connection with any heating, ventilation or air conditioning system or subsystems of such.

(2) "Heating, ventilation and air conditioning apprentice" means any person who, as his principal occupation, is engaged in learning and assisting in installation, improvement, extension, alteration or repair of HVAC systems. An apprentice shall perform HVAC work under the supervision of an HVAC journeyman or HVAC contractor.

(3) "Heating, ventilation and air conditioning contractor" means any person who fabricates, installs, maintains, services and repairs warm air heating and water heating systems, heat pumps, complete with warm air appliances including, but not limited to, boilers, pool heaters, space heaters, decorative gas and ~~solid-fuel~~ solid fuel-burning appliances, and gas, propane, electric or oil-fired water heaters; ventilating systems complete with blowers and plenum chambers; air conditioning systems complete with air conditioning unit and the ducts, registers, flues, humidity and thermostatic controls of air, liquid or gas temperatures below fifty (50) degrees fahrenheit or ten (10) degrees celsius, and air filters in connection with any of these systems.

(4) "Heating, ventilation and air conditioning journeyman" means any person who, as his principal occupation, is engaged in the installation, improvement, extension, alteration or repair of HVAC systems and who is familiar with the provisions of this chapter and who works in the employ and under direction of an HVAC contractor.

(5) "Heating, ventilation and air conditioning specialty apprentice including specialty limited heating apprentice" means any person who, as his principal occupation, is engaged in learning and assisting in a specific aspect of installation, improvement, extension, alteration or repair of HVAC

systems that includes, but is not limited to, such aspects as gas piping, gas appliances and installation, or decorative gas-fired appliances. A specialty apprentice shall perform HVAC work under the supervision of an HVAC journeyman, HVAC specialty journeyman, HVAC contractor or an HVAC specialty contractor.

(6) "Heating, ventilation and air conditioning specialty contractor including specialty limited heating contractor" means any person who, as his principal occupation, is engaged in a specific aspect of the heating, ventilation and air conditioning trade that includes, but is not limited to, such aspects as gas piping, gas appliances and installation, or decorative gas-fired appliances.

(7) "Heating, ventilation and air conditioning specialty journeyman including specialty limited heating journeyman" means any person who, as his principal occupation, is engaged in a specific aspect of installation, improvement, extension, alteration or repairing of HVAC systems that includes, but is not limited to, such aspects as gas piping, gas appliances and installation, or decorative gas-fired appliances. A specialty journeyman is familiar with the provisions of this chapter and works in the employ and under direction of an HVAC contractor or an HVAC specialty contractor.

(8) "Heating, ventilation and air conditioning system" means any heating, ventilation or air conditioning system in a residential, private, public or semipublic building or structure including, but not limited to, any mechanical means of heating or air conditioning and to gas piping, venting, ductwork and controls.

(9) "Local government" means any incorporated city or any county in the state.

(10) "Specialty limited heating" as it applies to the definitions of "heating, ventilation and air conditioning specialty apprentice," "heating, ventilation and air conditioning specialty contractor" and "heating, ventilation and air conditioning specialty journeyman" means any person who installs, maintains, services and repairs LP gas-fired appliances, LP fuel gas piping and related exhaust venting. This definition of specialty limited heating shall exclude boilers, hydronic systems, ducted forced air systems, ventilating and air conditioning systems, systems with a BTU input rating over three hundred thousand (300,000), solid fuel and electric fueled systems. A "specialty limited heating journeyman" is required to meet the experience requirement and either the education or examination requirement set forth in this section to receive a certificate of competency. The education of a "specialty limited heating journeyman" shall include one hundred twenty (120) hours of instruction approved by the board for ~~professional-~~ career technical education in LP gas specialty education. The experience requirement of a "specialty limited heating journeyman" shall be two (2) years' experience working in the trade, in compliance with the requirements of the state in which the applicant received his supervision or as a registered HVAC apprentice or registered HVAC specialty apprentice making HVAC installation on the job under the supervision of a qualified HVAC journeyman or qualified HVAC specialty journeyman. The examination required in this section shall be developed by the board for ~~professional-~~ career technical education and approved by the Idaho heating, ventilation and air conditioning board.

SECTION 45. 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-~~ career technical education and vocational rehabilitation administered by the state board for ~~professional-~~ career 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 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 46. That Section 72-501A, Idaho Code, be, and the same is hereby amended to read as follows:

72-501A. REHABILITATION DIVISION -- BUDGET AND EXPENSE -- COMPOSITION AND IMPLEMENTATION. (1) In order to assist in reducing the period of temporary disability resulting from an injury and to aid in restoring the injured employee to gainful employment with the least possible permanent physical impairment, the commission shall establish within the commission a rehabilitation division and adopt a program concerning itself with both physical and vocational rehabilitation, the latter of which shall include job placement.

(2) The commission is authorized to budget and expend for such rehabilitation program such funds as may be paid into the industrial administration fund or rehabilitation account thereof by a special premium tax provided by law for this purpose.

(3) The composition of the rehabilitation division and implementation of the rehabilitation program shall be in the discretion of the commission with the counsel, advice, cooperation and expertise of representatives of industry, labor, sureties and the legal and medical professions as well as institutions, hospitals and clinics having physical rehabilitation facil-

ities and with the assistance of the state board for ~~professional-~~ career technical education, when such board is carrying out the duties of chapter 23, title 33, Idaho Code.

SECTION 47. That Section 72-1347B, Idaho Code, be, and the same is hereby amended to read as follows:

72-1347B. WORKFORCE DEVELOPMENT TRAINING FUND. (1) There is established in the state treasury a special trust fund, separate and apart from all other public funds of this state, to be known as the workforce development training fund, hereinafter "training fund." Except as provided herein, all proceeds from the training tax defined in subsection (4) of this section shall be paid into the training fund. The state treasurer shall be the custodian of the training fund and shall invest said moneys in accordance with law. Any interest earned on the moneys in the training fund shall be deposited in the training fund. Moneys in the training fund shall be disbursed in accordance with the directions of the director. In any month when the unencumbered balance in the training fund exceeds six million dollars (\$6,000,000), the excess amount over six million dollars (\$6,000,000) shall be transferred to the employment security reserve fund, section 72-1347A, Idaho Code. For the purposes of this subsection ~~(1)~~, the unencumbered balance in the training fund is the balance in such fund reduced by the sum of:

- (a) The amounts that have been obligated pursuant to ~~fully-executed~~ fully executed workforce development training fund contracts; and
- (b) Any administrative costs related to the training fund that are due and payable.

(2) All moneys in the training fund are perpetually appropriated to the director for expenditure in accordance with the provisions of this section. The purpose of the training fund is to provide or expand training and re-training opportunities in an expeditious manner that would not otherwise exist for Idaho's workforce. The training fund is intended to supplement, but not to supplant or compete with, money available through existing training programs. The moneys in the training fund shall be used for the following purposes:

- (a) To provide training for skills necessary for specific economic opportunities and industrial expansion initiatives;
- (b) To provide training to upgrade the skills of currently employed workers at risk of being permanently laid off;
- (c) For refunds of training taxes erroneously collected and deposited in the workforce training fund; and
- (d) For all administrative expenses incurred by the department associated with the collection of the training tax and any other administrative expenses associated with the training fund.

(3) Expenditures from the training fund for purposes authorized in paragraphs (a) and (b) of subsection (2) of this section shall be approved by the director~~7~~ and the director of the department of commerce, in consultation with the office of the governor, based on procedures, criteria and performance measures established by the council appointed pursuant to section 72-1336, Idaho Code. The activities funded by the training fund will be coordinated with similar activities funded by the state division of ~~professional-~~ career technical education. Expenditures from the training fund for purposes authorized in paragraphs (c) and (d) of subsection (2) of this section shall be approved by the director. The director shall pay all approved expenditures as long as the training fund has a positive balance. The council shall report annually to the governor and the joint finance-appropriations committee the commitments and expenditures made from the training fund in the preceding fiscal year and the results of the activities funded by the training fund.

(4) A training tax is hereby imposed on all covered employers required to pay contributions pursuant to section 72-1350, Idaho Code, with the exception of deficit employers who have been assigned a taxable wage rate from rate class six pursuant to section 72-1350, Idaho Code. The training tax rate shall be equal to three percent (3%) of the taxable wage rate then in effect for each eligible, standard-rated and deficit employer. The training tax shall be due and payable at the same time and in the same manner as contributions. This subsection is repealed effective January 1, 2018, unless, prior to that date, the Idaho legislature approves the continuation of this subsection by repeal of this sunset clause.

(5) The provisions of this chapter which apply to the payment and collection of contributions also apply to the payment and collection of the training tax, including the same calculations, assessments, method of payment, penalties, interest, costs, liens, injunctive relief, collection procedures and refund procedures. In the administration of the provisions of this section, the director is granted all rights, authority, and prerogatives granted under the provisions of this chapter. Moneys collected from an employer delinquent in paying contributions, reserve taxes and the training tax shall first be applied to any penalty and interest imposed pursuant to the provisions of this chapter and shall then be applied pro rata to delinquent contributions to the employment security fund, section 72-1346, Idaho Code, delinquent reserve taxes to the reserve fund, section 72-1347A, Idaho Code, and delinquent training taxes to the training fund. Any interest and penalties collected pursuant to this subsection shall be paid into the state employment security administrative and reimbursement fund, section 72-1348, Idaho Code, and any interest or penalties refunded under this subsection shall be paid out of that same fund. Training taxes paid pursuant to this section shall not be credited to the employer's experience rating account and may not be deducted by any employer from the wages of individuals in its employ. All training taxes shall be deposited in the clearing account of the employment security fund, section 72-1346, Idaho Code, for clearance only and shall not become part of such fund. After clearance, the moneys shall be deposited in the training fund established in subsection (1) of this section.

(6) Administrative costs related to the training fund shall be paid from the training fund in accordance with subsection (3) of this section.

Approved February 25, 2016

CHAPTER 26
(S.B. No. 1213)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-1101, IDAHO CODE, TO PROHIBIT THE USE OF UNMANNED AIRCRAFT SYSTEMS FOR HUNTING, MOLESTING OR LOCATING GAME ANIMALS, GAME BIRDS AND FURBEARING ANIMALS.

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

SECTION 1. 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 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, including any unmanned aircraft system, 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, including any unmanned aircraft system, 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, including any unmanned aircraft system, in any manner to spot or locate game animals, game birds or 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, including any unmanned aircraft system, 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 harbinger.

(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 violating 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 (c) or (e) 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 February 25, 2016

CHAPTER 27
(S.B. No. 1216)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED FOR FISCAL YEAR 2016; 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 191, Laws of 2015, and any other appropriation provided for by law, 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 OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:			
Rehabilitation Revenue and Refunds			
Fund		\$42,400	\$42,400
Federal Grant			
Fund	\$50,000	0	50,000
TOTAL	\$50,000	\$42,400	\$92,400

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 25, 2016

CHAPTER 28
(H.B. No. 376)

AN ACT

RELATING TO CIGARETTE TAXES; AMENDING SECTION 63-2510A, IDAHO CODE, TO REVISE CIGARETTE WHOLESALER BONDING REQUIREMENTS AND TO PROVIDE FOR AN ALTERNATIVE OF PREPAYING THE FULL VALUE OF STAMPS IN LIEU OF POSTING A BOND.

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

SECTION 1. That Section 63-2510A, Idaho Code, be, and the same is hereby amended to read as follows:

63-2510A. BONDING. (1) At the time an application for a wholesaler's license or permit, under section 63-2503, Idaho Code, is submitted to the state tax commission, the applicant shall file a bond, in such form as the commission may determine, 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,~~ the greater of twice the estimated average tax liability for the reporting period for which the applicant will be required to file a return, under section 63-2510, Idaho Code, or the value of stamps in the wholesaler's inventory including the value of stamps ordered but not yet received. ~~The bond required shall, in no case, be less than one thousand dollars (\$1,000).~~ The total amount required to be secured by the bond may be increased or reduced by the commission at any time. Any bond given in conjunction with the provisions of this section shall be a continuing instrument, and shall cover the period during which the license or permit 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 wholesaler shall be discharged only by the commission. Any surety on any bond furnished by a wholesaler shall be discharged and released by the commission 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 commission 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 wholesaler and require him to furnish a new bond. Unless the wholesaler 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 wholesaler's license or permit.

(2) In the event that any taxes due under the provisions of this chapter are not paid by a wholesaler, 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 in this section.

(3) A wholesaler may pay full value for stamps in advance in lieu of posting a bond. A wholesaler that has posted a bond may petition for release from the bond requirement after having filed timely and fully paid cigarette tax returns, as provided in section 63-2510, Idaho Code, for a period of not less than twelve (12) months. Upon such petition from the wholesaler, the commission will review the cigarette tax return filing and payment record of the wholesaler and, if determined necessary, within sixty (60) days examine the books and records of the wholesaler. The commission will, no later than ninety (90) days from the date of receipt of the petition, advise the wholesaler in writing of its determination and the reasons therefor. If the

wholesaler wishes to seek a redetermination of the commission's decision, a petition for redetermination may be filed as provided in section 63-3045, Idaho Code.

(4) If at any time after release of a bond requirement the wholesaler becomes delinquent for any period in the filing of tax returns or the payment of the tax as required in section 63-2510, Idaho Code, the commission may make immediate demand that the return be filed or the payment be tendered and that a bond be filed as set forth in subsection (1) of this section. Any wholesaler against whom such demand is made may petition for a redetermination as provided in section 63-3045, Idaho Code, except that the petition must be filed no later than ten (10) days after service upon the person of notice thereof. If a petition for redetermination is not filed within the ten (10) day period, the determination shall become final and the commission shall issue a jeopardy assessment as provided in section 63-3630, Idaho Code, and thereafter may:

- (a) Seize all Idaho cigarette stamps in the possession of the wholesaler which are not applied to cigarettes;
- (b) File a lien of record upon the cigarettes held in inventory by the wholesaler or seize such cigarettes;
- (c) Revoke the wholesaler's cigarette permit as provided in section 63-2503, Idaho Code, except that no notice or hearing shall be required; and
- (d) Notify the manufacturers of the cigarettes held in inventory by the wholesaler of any or all actions so taken.

(5) A wholesaler who acquires all cigarettes with tax stamps affixed at the time of acquisition may petition the state tax commission for waiver of the bond required in subsection (1) of this section. Upon receipt of evidence establishing that the wholesaler is not required to pay cigarette taxes under this chapter because the wholesaler exclusively purchases cigarettes with stamps affixed by another wholesaler, the state tax commission may waive the requirement for a bond. Any such waiver is conditioned upon the wholesaler's continuing qualification for the waiver under this subsection.

Approved March 1, 2016

CHAPTER 29
(H.B. No. 359)

AN ACT

RELATING TO PROPERTY TAXES; AMENDING SECTION 63-201, IDAHO CODE, TO PROVIDE THAT OPERATING PROPERTY SHALL NOT BE INCLUDED IN TAXABLE VALUE FOR THE PURPOSE OF MAKING A LEVY THAT IS TO BE MADE AGAINST REAL PROPERTY ONLY.

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

SECTION 1. That Section 63-201, Idaho Code, be, and the same is hereby amended to read as follows:

63-201. DEFINITIONS. As used for property tax purposes in chapters 1 through 23, title 63, Idaho Code, the terms defined in this section shall have the following meanings, unless the context clearly indicates another meaning:

(1) "Appraisal" means an estimate of property value for property tax purposes.

(a) For the purpose of estimated property value to place the value on any assessment roll, the value estimation must be made by the assessor or a certified property tax appraiser.

(b) For the purpose of estimating property value to present for an appeal filed pursuant to sections 63-501A, 63-407 and 63-409, Idaho Code, the value estimation may be made by the assessor, a certified property tax appraiser, a licensed appraiser, or a certified appraiser or any party as specified by law.

(2) "Bargeline" means those water transportation tugs, boats, barges, lighters and other equipment and property used in conjunction with waterways for bulk transportation of freight or ship assist.

(3) "Cogenerators" means facilities which produce electric energy, and steam or forms of useful energy which are used for industrial, commercial, heating or cooling purposes.

(4) "Collection costs" are amounts authorized by law to be added after the date of delinquency and collected in the same manner as property tax.

(5) "Credit card" means a card or device, whether known as a credit card or by any other name, issued under an arrangement pursuant to which a card issuer gives to a cardholder the privilege of obtaining credit from the card issuer or other person in purchasing or leasing property or services, obtaining loans, or otherwise.

(6) "Debit card" means any instrument or device, whether known as a debit card or by any other name, issued with or without a fee by an issuer for the use of the cardholder in depositing, obtaining or transferring funds.

(7) "Delinquency" means any property tax, special assessment, fee, collection cost, or charge collected in the same manner as property tax, that has not been paid in the manner and within the time limits provided by law.

(8) "Electronic funds transfer" means any transfer of funds that is initiated by electronic means, such as an electronic terminal, telephone, computer, ATM or magnetic tape.

(9) "Fixtures" means those articles that, although once movable chattels, have become accessory to and a part of improvements to real property by having been physically incorporated therein or annexed or affixed thereto in such a manner that removing them would cause material injury or damage to the real property, the use or purpose of such articles is integral to the use of the real property to which it is affixed, and a person would reasonably be considered to intend to make the articles permanent additions to the real property. "Fixtures" includes systems for the heating, air conditioning, ventilation, sanitation, lighting and plumbing of such building.

(10) "Floating home" means a floating structure that is designed and built to be used, or is modified to be used, as a stationary waterborne residential dwelling.

(11) "Improvements" means all buildings, structures, manufactured homes, as defined in section 39-4105(8), Idaho Code, mobile homes as defined in section 39-4105(9), Idaho Code, and modular buildings, as defined in section 39-4301(7), Idaho Code, erected upon or affixed to land, fences, water ditches constructed for mining, manufacturing or irrigation purposes, fixtures, and floating homes, whether or not such improvements are owned separately from the ownership of the land upon or to which the same may be erected, affixed or attached. The term "improvements" also includes all fruit, nut-bearing and ornamental trees or vines not of natural growth, growing upon the land, except nursery stock.

(12) "Late charge" means a charge of two percent (2%) of the delinquency.

(13) "Lawful money of the United States" means currency and coin of the United States at par value and checks and drafts which are payable in dollars of the United States at par value, payable upon demand or presentment.

(14) "Legal tender" means lawful money as defined in subsection (13) of this section.

(15) "Market value" means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer,

with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

(16) "Operating property" means real and personal property operated in connection with any public utility, railroad or private railcar fleet, wholly or partly within this state, and which property is necessary to the maintenance and operation of the public utility, railroad or private railcar fleet, and the roads or lines thereof, and includes all rights-of-way accompanied by title; roadbeds; tracks; pipelines; bargelines; equipment and docks; terminals; rolling stock; equipment; power stations; power sites; lands; reservoirs, generating plants, transmission lines, distribution lines and substations; and all title and interest in such property, as owner, lessee or otherwise. The term includes electrical generation plants under construction, whether or not owned by or operated in connection with any public utility. For the purpose of the appraisal, assessment and taxation of operating property, pursuant to chapter 4, title 63, Idaho Code, the value of intangible personal property shall be excluded from the taxable value of operating property in accordance with the provisions of section 63-602L, Idaho Code, and the value of personal property, other than intangible personal property, shall be excluded from the taxable value of operating property in accordance with the provisions of section 63-602KK, Idaho Code. Operating property shall be included in taxable value for the purpose of making a levy, as required in section 63-803, Idaho Code, except when an exemption is provided or when said levy is to be made against real property only.

(17) "Party in interest" means a person who holds a properly recorded mortgage, deed of trust or security interest.

(18) "Person" means any entity, individual, corporation, partnership, firm, association, limited liability company, limited liability partnership or other such entities as recognized by the state of Idaho.

(19) "Personal property" means everything that is the subject of ownership and that is not included within the term "real property."

(20) "Private railcar fleet" means railroad cars or locomotives owned by, leased to, occupied by or franchised to any person other than a railroad company operating a line of railroad in Idaho or any company classified as a railroad by the interstate commerce commission and entitled to possess such railroad cars and locomotives except those possessed solely for the purpose of repair, rehabilitation or remanufacturing of such locomotives or railroad cars.

(21) "Public utility" means electrical companies, pipeline companies, natural gas distribution companies, or power producers included within federal law, bargelines, and water companies which are under the jurisdiction of the Idaho public utilities commission. The term also includes telephone corporations, as that term is defined in section 62-603, Idaho Code, except as hereinafter provided, whether or not such telephone corporation has been issued a certificate of convenience and necessity by the Idaho public utilities commission.

This term does not include cogenerators, mobile telephone service or companies, nor does it include pager service or companies, except when such services are an integral part of services provided by a certificated utility company, nor does the term "public utility" include companies or persons engaged in the business of providing solely on a resale basis, any telephone or telecommunication service which is purchased from a telephone corporation or company.

(22) "Railroad" means every kind of railway, whether its line of rails or tracks be at, above or below the surface of the earth, and without regard to the kind of power used in moving its rolling stock, and shall be considered to include every kind of street railway, suburban railway or interurban railway excepting facilities established solely for maintenance and rebuilding of railroad cars or locomotives.

(23) "Real property" means land and all rights and privileges thereto belonging or any way appertaining, all quarries and fossils in and under the land, and all other property which the law defines, or the courts may interpret, declare and hold to be real property under the letter, spirit, intent and meaning of the law, improvements and all standing timber thereon, including standing timber owned separately from the ownership of the land upon which the same may stand, except as modified in chapter 17, title 63, Idaho Code. Timber, forest, forest land, and forest products shall be defined as provided in chapter 17, title 63, Idaho Code.

(24) "Record owner" means the person or persons in whose name or names the property stands upon the records of the county recorder's office. Where the record owners are husband and wife at the time of notice of pending issue of tax deed, notice to one (1) shall be deemed and imputed as notice to the other spouse.

(25) "Special assessment" means a charge imposed upon property for a specific purpose, collected and enforced in the same manner as property taxes.

(26) "System value" means the market value for assessment purposes of the operating property when considered as a unit.

(27) "Tax code area" means a geographical area made up of one (1) or more taxing districts with one (1) total levy within the geographic area, except as otherwise provided by law.

(28) "Taxing district" means any entity or unit with the statutory authority to levy a property tax.

(29) "Taxable value" means market value for assessment purposes, less applicable exemptions or other statutory provisions. When statutory provisions define taxable value as limited to real property for the purpose of making a levy, operating property shall not be included.

(30) "Transient personal property" is personal property, specifically such construction, logging or mining machinery and equipment which is kept, moved, transported, shipped, hauled into or remaining for periods of not less than thirty (30) days, in more than one (1) county in the state during the same year.

(31) "Warrant of distraint" means a warrant ordering the seizure of personal property to enforce payment of property tax, special assessment, expense, fee, collection cost or charge collected in the same manner as personal property tax.

Approved March 1, 2016

CHAPTER 30
(H.B. No. 360)

AN ACT

RELATING TO PROPERTY TAXES; AMENDING SECTION 63-807, IDAHO CODE, TO REQUIRE THAT ALL TAXING DISTRICTS MUST BE FORMED BY A CERTAIN DATE IN ORDER TO MAKE A LEVY FOR THAT CALENDAR YEAR; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 63-807, Idaho Code, be, and the same is hereby amended to read as follows:

63-807. LEVY BY NEW TAXING UNITS -- DUTIES OF AUDITOR. ~~Except as otherwise provided by law, n~~No taxing district formed or organized after the first day of January, in any year, shall be authorized to make a levy for that calendar year, nor shall the auditor of any county in which the taxing district may be situated be required to extend any levy on behalf of the taxing dis-

trict upon the county rolls extended by him for the year. No existing taxing district which shall annex any territory after the first day of January of the current year, shall be authorized to levy a property tax for the year upon the property situated in the annexed territory and the property shall in all respects be taxed as if the annexation had not taken place. However, should any existing school district or school districts divide, consolidate or reorganize after the assessment date in any year, the board of trustees of the divided, consolidated or reorganized school district shall have the power to levy property taxes and certify the levy for the year in the same manner and according to the same boundaries which the separate school districts involved in the division, consolidation or reorganization could have levied property taxes had the division, consolidation or reorganization not taken place.

SECTION 2. This act shall be in full force and effect on and after January 1, 2017.

Approved March 1, 2016

CHAPTER 31
(H.B. No. 352)

AN ACT

RELATING TO THE INCOME TAX; AMENDING SECTION 63-3035, IDAHO CODE, TO REVISE THE DEADLINE FOR EMPLOYERS TO REPORT CERTAIN INFORMATION TO THE STATE TAX COMMISSION, TO PROVIDE A TIME PERIOD FOR EMPLOYERS TO CORRECT ANY ERRORS IN AN ELECTRONIC FILING AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 63-3035, Idaho Code, be, and the same is hereby amended to read as follows:

63-3035. STATE WITHHOLDING TAX ON PERCENTAGE BASIS -- WITHHOLDING, COLLECTION AND PAYMENT OF TAX. (a) Every employer who is required under the provisions of the Internal Revenue Code to withhold, collect and pay income tax on wages or salaries paid by such employer to any employee (other than employees specified in Internal Revenue Code section 3401(a)(2)) shall, at the time of such payment of wages, salary, bonus or other emolument to such employee, deduct and retain therefrom an amount substantially equivalent to the tax reasonably calculated by the state tax commission to be due from the employee under this chapter. The state tax commission shall prepare tables showing amounts to be withheld, and shall supply same to each employer subject to this section. In the event that an employer can demonstrate administrative inconvenience in complying with the exact requirements set forth in these tables, he may, with the consent of the state tax commission and upon application to it, use a different method which will produce substantially the same amount of taxes withheld. Every employer making payments of wages or salaries earned in Idaho, regardless of the place where such payment is made:

- (1) Shall be liable to the state of Idaho for the payment of the tax required to be deducted and withheld under this section and shall not be liable to any individual for the amount deducted from his wages and paid over in compliance or intended compliance with this section;
- (2) Must pay to the state tax commission monthly on or before the ~~20th~~ twentieth day of the succeeding month, or at such other times as

the state tax commission may allow, an amount of tax which, under the provisions of this chapter, he is required to deduct and withhold;

(3) Shall register with the state tax commission, in the manner prescribed by it, to establish an employer's withholding account number. The account number will be used to report all amounts withheld, for the annual reconciliation required in this section, and for such other purposes relating to withholding as the state tax commission may require; and

(4) Must, notwithstanding the provisions of paragraphs (1) and (2) of this subsection, if the amount of withholding of such employer for the preceding twelve (12) month period equals or exceeds two hundred forty thousand dollars (\$240,000) per annum or an average of twenty thousand dollars (\$20,000) per month per annum, pay to the state tax commission on the basis of two (2) withholding periods. The first of which shall begin on the first day of the month and end on the fifteenth day of the same month and payment shall be made not later than the twentieth day of the same month. The second period shall begin on the sixteenth day of the same month and end on the last day of the same month, and payment shall be made not later than the fifth day of the following month.

(5) If a payment required pursuant to ~~subsection (a)~~ paragraph (2) or ~~(a)~~ (4) of this subsection is not made or is made delinquently or if made is not equal to the withholding required under this section, the state tax commission may treat the failure as a failure to file a return and may take administrative and judicial actions as authorized by this chapter in the case of a failure to file a return. Interest, at the rate provided by section 63-3045, Idaho Code, shall apply to any such underpayment.

(6) Commencing in 2006, the state tax commission shall determine whether the threshold amounts established by ~~subsection (a)~~ paragraph (4) of this subsection must be adjusted to reflect fluctuations in the cost of living. The state tax commission shall base its determination on the cumulative effect of the annual cost-of-living percentage modifications determined by the United States secretary of health and human services pursuant to 42 U.S.C. 415(i). When the cumulative percentage applied to the monthly threshold amount equals or exceeds five thousand dollars (\$5,000), the commission shall promulgate a rule adjusting the monthly threshold amount by five thousand dollars (\$5,000) and making the necessary proportional adjustment to the annual threshold amount. The rule shall be effective for the next succeeding calendar year and each year thereafter until again adjusted by the commission. The tax commission shall determine subsequent adjustments in the same manner, in each case using the year of the last adjustment as the base year.

(b) (1) In addition to the payments required pursuant to subsections (a) (2) and ~~(a)~~ (4) of this section, every employer shall file a return upon such form as shall be prescribed by the state tax commission, but not more frequently than annually, or as required pursuant to any agreement between the state tax commission and the department of labor under section 63-3035B, Idaho Code, unless a shorter filing period and due date is prescribed by the state tax commission. The return shall be due on the last day of the ~~second~~ first month following the end of the period to which the return relates. The return shall:

(i) Show, for the period to which it relates, the total amount of wages, salary, bonus or other emolument paid to his employees, the amount deducted therefrom in accordance with the provisions of the Internal Revenue Code, the amount deducted therefrom in accordance with the provisions of this section, the amount of any previous payments made pursuant to this section, the amount of any deficiency due from the employer or refund payable by the state

tax commission and such pertinent and necessary information as the state tax commission may require.

(ii) Include a copy of the declaration of withholding provided to employees pursuant to ~~subsection (b)~~ paragraph (2) of this subsection.

(2) Every employer making a declaration of withholding as provided herein shall furnish to the employees annually, but not later than thirty (30) days after the end of the calendar year, a record of the amount of tax withheld from such employee on forms to be prescribed, prepared and furnished by the state tax commission.

(3) Every employer who is required, under Internal Revenue Code section 6011, to file returns on magnetic media, machine readable form or electronic means, as defined in the Idaho uniform electronic transactions act, may be required by rules of the state tax commission to file corresponding state returns on similar magnetic media, machine readable form or electronic means. Such rules may provide a different due date for such returns, which shall be no later than the date employers are required to file such returns with the internal revenue service or the social security administration and shall provide a five (5) business day period for an employer to correct errors in the electronic file received by the due date.

(c) All moneys deducted and withheld by every employer shall immediately upon such deduction be state money and every employer who deducts and retains any amount of money under the provisions of this chapter shall hold the same in trust for the state of Idaho and for the payment thereof to the state tax commission in the manner and at the times in this chapter provided. Any employer who does not possess real property situated within the state of Idaho, which, in the opinion of the state tax commission, is of sufficient value to cover his probable tax liability, may be required to post a surety bond in such sum as the state tax commission shall deem adequate to protect the state.

(d) The provisions of this chapter relating to additions to tax in case of delinquency, and penalties, shall apply to employers subject to the provisions of this section and for these purposes any amount deducted, or required to be deducted and remitted to the state tax commission under this section, shall be considered to be the tax of the employer and with respect to such amount he shall be considered the taxpayer.

(e) Amounts deducted from wages of an employee during any calendar year in accordance with the provisions of this section shall be considered to be in part payment of the tax imposed on such employee for his tax year, which begins within such calendar year, and the return made by the employer under this subsection ~~(e)~~ shall be accepted by the state tax commission as evidence in favor of the employee of the amount so deducted from his wages. Where the total amount so deducted exceeds the amount of tax on the employee, based on his Idaho taxable income, or where his income is not taxable under this chapter, the state tax commission shall, after examining the annual return filed by the employee in accordance with this chapter, but not later than sixty (60) days after the filing of each return, refund the amount of the excess deducted.

(f) This section shall in no way relieve any taxpayer from his obligation of filing a return at the time required under this chapter, and, should the amount withheld under the provisions of this section be insufficient to pay the total tax of such taxpayer, such unpaid tax shall be paid at the time prescribed by section 63-3034, Idaho Code.

(g) An employee receiving wages shall on any day be entitled to not more than, but may claim fewer than, the number of withholding exemptions to which he is entitled under the Internal Revenue Code for federal income tax withholding purposes.

(h) An employer shall use the exemption certificate filed by the employee with the employer under the withholding exemption provisions of the Internal Revenue Code in determining the amount of tax to be withheld from the employee's wages or salary under this chapter. The state tax commission may redetermine the number of withholding exemptions to which an employee is entitled under subsection (g) of this section, and the state tax commission may require such exemption certificate to be filed on a form prescribed by the commission in any circumstance where the commission finds that the exemption certificate filed for Internal Revenue Code purposes does not properly reflect the number of withholding exemptions to which the employee is entitled under this chapter. In no event shall any employee give an exemption certificate which claims a higher number of withholding exemptions than the number to which the employee is entitled by subsection (g) of this section.

Approved March 1, 2016

CHAPTER 32
(S.B. No. 1208)

AN ACT

RELATING TO SCHOLARSHIPS; AMENDING SECTION 33-4302, IDAHO CODE, TO SPECIFY THE TYPE OF HOUSING PROVIDED TO ELIGIBLE INDIVIDUALS, TO SPECIFY WHEN A PUBLIC SAFETY OFFICER IS CONSIDERED TOTALLY AND PERMANENTLY DISABLED FOR PURPOSES OF AN ARMED FORCES AND PUBLIC SAFETY OFFICER SCHOLARSHIP AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-4303, IDAHO CODE, TO ADD PROVISIONS REGARDING THE INVESTMENT OF SURPLUS MONEYS IN THE OPPORTUNITY SCHOLARSHIP PROGRAM ACCOUNT; AND AMENDING SECTION 63-3067D, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS.

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

SECTION 1. That Section 33-4302, Idaho Code, be, and the same is hereby amended to read as follows:

33-4302. ARMED FORCES AND PUBLIC SAFETY OFFICER SCHOLARSHIPS. (1) The following individuals shall be eligible for the scholarship program provided for herein:

(a) Any spouse or child of any Idaho citizen who, while such person is or was a resident of the state of Idaho, has been determined by the federal government to be a prisoner of war or missing in action; or to have died of, or become totally and permanently disabled by, injuries or wounds sustained in action in any area of armed conflict in which the United States is a party; and

(b) Any spouse or child of any member of the armed forces of the United States who is stationed in the state of Idaho on military orders and who is deployed from the state of Idaho to any area of armed conflict in which the United States is a party and who has been determined by the federal government to be a prisoner of war or missing in action; or to have died of, or become totally and permanently disabled by, injuries or wounds sustained in action as a result of such deployment.

(c) Any spouse or child of a full-time or part-time public safety officer, as defined in subsection paragraph (d) of this subsection, employed by or volunteering for the state of Idaho or for a political subdivision of the state of Idaho, which public safety officer is or was a resident of the state of Idaho at the time such officer was killed or totally and permanently disabled in the line of duty. The death or disability shall have occurred on or after January 1, 1975. The scholar-

ship provided for in this section shall not be available unless it is determined that:

- (i) The death or disablement of the public safety officer occurred in the performance of the officer's duties;
- (ii) The death or disablement was not caused by the intentional misconduct of the public safety officer or by such officer's intentional infliction of injury; and
- (iii) The public safety officer was not voluntarily intoxicated at the time of death.

(d) For purposes of this section, the following terms have the following meanings:

- (i) "Public safety officer" means a peace officer or firefighter, a paramedic or emergency medical technician as those terms are defined in section 56-1012, Idaho Code.
- (ii) "Volunteering" means contributing services as a bona fide member of a legally organized law enforcement agency, fire department or licensed emergency medical service provider organization.

(2) (a) To be eligible for the scholarship provided for herein, a child of a military member or a public safety officer must be a resident of the state of Idaho and must have completed secondary school or its equivalent in the state of Idaho. A child already born, or born after a military member or public safety officer is determined to be imprisoned or missing in action, or is killed or becomes totally and permanently disabled, shall be eligible for this scholarship;

(b) To be eligible for the scholarship provided for herein, the spouse of a military member or public safety officer must be a resident of the state of Idaho and must have been married to such person at the time the military member or public safety officer was determined to be imprisoned or missing in action, or was killed or became totally and permanently disabled. Provided however, that in the situation of disability, the spouse must be currently married to such person.

(3) An eligible individual who applies for the scholarship provided for herein shall, after verification of eligibility, receive the scholarship and be admitted to attend undergraduate studies at any public institution of higher education or public professional-technical college within the state of Idaho without the necessity of paying tuition and fees therefor; such student shall be provided with books, equipment and supplies necessary for pursuit of such program of enrollment not to exceed five hundred dollars (\$500) per quarter, semester, intensified semester, or like educational period; such student shall be furnished on-campus institution housing and subsistence for each month he or she is enrolled full-time under this program and actually resides in such on-campus facility; provided however, that such undergraduate educational benefits shall not exceed a total of thirty-six (36) months or four (4) nine (9) month periods. Provided further, that the initiation of such educational benefits shall extend for a period of ten (10) years after achieving a high school diploma or its equivalency, or for a period of ten (10) years after the event giving rise to the eligibility for the scholarship, whichever is longer.

(4) The eligible individual shall meet such other educational qualifications as such institution of higher education or professional-technical college has established for other prospective students of this state, as well as any additional educational qualifications established by the state board of education and board of regents of the university of Idaho.

(5) Application for eligibility under this section shall be made to the state board of education and the board of regents of the university of Idaho or the state board of vocational-technical education. The board shall verify the eligibility of the applicant and communicate such eligibility to such person and the affected institution or college.

(6) Affected institutions shall in their preparation of future budgets include therein costs resultant from such tuition, fee, book, equipment, supply, housing and subsistence loss for reimbursement thereof from appropriations of state funds.

(7) For the purposes of this section, a member of the armed forces of the United States is considered totally and permanently disabled if at the time of application a current disability determination made by the United States social security administration is in effect with respect to such individual.

(8) For the purposes of this section, a public safety officer is considered totally and permanently disabled if at the time of application a current disability determination made by the public employee retirement system of Idaho is in effect with respect to such individual.

(9) The state board of education and board of regents of the university of Idaho may adopt rules to implement and administer the scholarship program provided for in this section.

SECTION 2. That Section 33-4303, Idaho Code, be, and the same is hereby amended to read as follows:

33-4303. IDAHO OPPORTUNITY SCHOLARSHIP. (1) The purposes of this section are to:

- (a) Recognize that all Idaho citizens benefit from an educated citizenry;
- (b) Increase individual economic vitality and improve the overall quality of life for many of Idaho's citizens;
- (c) Provide access to eligible Idaho postsecondary education through funding to remove financial barriers;
- (d) Increase the opportunity for economically disadvantaged Idaho students; and
- (e) Incentivize students to complete a postsecondary education degree or certificate.

(2) For the purposes of this section, the following definitions shall apply:

(a) "Educational costs" means the dollar amount determined annually by the state board of education as necessary for student tuition, fees, books and such other expenses reasonably related to attendance at an eligible Idaho postsecondary educational institution.

(b) "Eligible Idaho postsecondary educational institution" means: A a public postsecondary organization governed or supervised by the state board, the board of regents of the university of Idaho, a board of trustees of a community college established pursuant to the provisions of chapter 21, title 33, Idaho Code, or the state board for professional-technical education or any educational organization located in Idaho that is:

- (i) Operated privately;
- (ii) Classified as not-for-profit under state law;
- (iii) Under the control of an independent board and not directly controlled or administered by a public or political subdivision; and
- (iv) Accredited by an organization recognized by the state board as provided in section 33-2402, Idaho Code.

(c) "Eligible student" means a student who:

- (i) Is an Idaho resident as defined in section 33-3717B, Idaho Code;
- (ii) Has graduated or will graduate from an accredited high school or its equivalent in Idaho as determined by the state board;
- (iii) Has enrolled or applied to an eligible Idaho postsecondary educational institution;

(iv) Is a postsecondary undergraduate student who has not previously completed a baccalaureate (bachelor's) degree or higher; and

(v) Meets need and merit criteria as set by the state board.

"Eligible student" also means a student who has met the eligibility requirements and was awarded an opportunity scholarship prior to June 30, 2014. Continued eligibility shall be based upon the eligibility requirements at the time of the original award.

(d) "Opportunity scholarship program" means the scholarship program described in this section and in the rules established by the state board.

(e) "Shared model of responsibility" means a model set by the board to determine the required and expected contributions of the student, the student's family and available federal financial aid.

(f) "State board" means the state board of education.

(3) The state board shall promulgate rules to determine student eligibility, academic and financial eligibility, a process for eligible students to apply, amount of awards, how eligible students will be selected and when the awards shall be made, as well as other rules necessary for the administration of this section.

(4) An eligible student must:

(a) Apply or have applied for federal student financial assistance available to an eligible student who will attend or is enrolled in an eligible Idaho postsecondary educational institution; and

(b) Meet need and merit criteria established by the state board in rule.

(5) Funds that are available for the opportunity scholarship program shall be used to provide scholarships based upon a shared model of responsibility between the scholarship recipient and the recipient's family, the federal government and the participating eligible Idaho postsecondary educational institution that the recipient attends for covering the educational costs.

(6) The opportunity scholarship award shall not exceed the actual educational costs at the eligible Idaho postsecondary educational institution that the student attends. The amount of scholarship shall not exceed the educational costs established by the state board.

(7) Award payments shall be made annually to an eligible Idaho postsecondary educational institution. In no instance may the entire amount of an award be paid to or on behalf of such student in advance.

(8) If an eligible student becomes ineligible for a scholarship under the provisions of this chapter, or if a student discontinues attendance before the end of any semester, quarter, term or equivalent, covered by the award after receiving payment under this chapter, the eligible Idaho postsecondary educational institution shall remit, up to the amount of any payments made under this program, any prorated tuition or fee balances to the state board.

(9) There is hereby created an account in the state treasury to be designated the opportunity scholarship program account.

(a) The account shall consist of moneys appropriated to the account by the legislature, moneys contributed to the account from other sources and the earnings on such moneys. The executive director of the state board may receive on behalf of the state board any moneys or real or personal property donated, bequeathed, devised or conditionally granted to the state board for purposes of providing funding for such account. Moneys received directly or derived from the sale of such property shall be deposited by the state treasurer in the account.

(b) Earnings from moneys in the account or specified gifts shall be distributed annually to the state board to implement the opportunity scholarship program as provided for under the provisions of this chapter.

(c) All moneys placed in the account and earnings thereon are hereby perpetually appropriated to the state board for the purpose described in subsection (9) (b) of this section. All expenditures from the account shall be paid out in warrants drawn by the state controller upon presentation of the proper vouchers. Up to fifty thousand dollars (\$50,000) of the annual earnings distribution to the state board may be used by the state board annually for administrative costs related to the implementation of the provisions of this chapter.

(d) Allowable administrative costs include, but are not limited to, operating expenses for the implementation and maintenance of a database, operating expenses to administer the program, personnel costs necessary to administer the program and costs related to promoting awareness of the program.

(e) Any unused annual funds shall be deposited into the opportunity scholarship program account.

(f) Pending use, surplus moneys in the account shall be invested by the state treasurer or endowment fund investment board in the same manner as provided under section 67-1210 or 68-501, Idaho Code, as applicable. Interest earned on the investments shall be returned to the account.

(10) The effectiveness of the Idaho opportunity scholarship will be evaluated by the state board on a regular basis. This evaluation will include annual data collection as well as longer-term evaluations.

SECTION 3. That Section 63-3067D, Idaho Code, be, and the same is hereby amended to read as follows:

63-3067D. DESIGNATION BY TAXPAYER -- OPPORTUNITY SCHOLARSHIP. (1) Every taxpayer who has a refund due and payable for overpayment of taxes under the provisions of this chapter may designate any portion of such refund to be remitted to the state board of education or the board of regents of the university of Idaho for the purpose of awarding opportunity scholarships pursuant to chapter 56, title 33, Idaho Code. Every taxpayer who has an income tax liability may, in addition to his tax obligation, include a donation of any amount to be remitted to the state board of education for the purpose of awarding opportunity scholarships pursuant to ~~chapter 56, title~~ section 33-4303, Idaho Code. Such moneys shall be deposited into the opportunity scholarship program account pursuant to section 33-5608 4303, Idaho Code.

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

(3) Prior to the distribution of funds into the opportunity scholarship program account as provided in subsection (1) of this section from the refund account, the state tax commission shall retain funds for the commission's costs for collecting and administering the moneys in the account as follows: three thousand dollars (\$3,000) from the opportunity scholarship program account for start-up costs during the first year of collections, and three thousand dollars (\$3,000) or twenty percent (20%) of the moneys remitted to the opportunity scholarship program account pursuant to this section during the fiscal year, whichever is less, from the opportunity scholarship program account during each fiscal year thereafter, which amounts are hereby appropriated to the state tax commission.

CHAPTER 33
(S.B. No. 1202)

AN ACT

RELATING TO THE STATE PERSONNEL SYSTEM; AMENDING SECTION 67-5303, IDAHO CODE, TO PROVIDE THAT ALL EMPLOYEES OF THE STEM ACTION CENTER, THE OFFICE OF SPECIES CONSERVATION, THE OFFICE OF DRUG POLICY AND THE OFFICE OF ENERGY RESOURCES SHALL BE NONCLASSIFIED EMPLOYEES.

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

SECTION 1. That Section 67-5303, Idaho Code, be, and the same is hereby amended to read as follows:

67-5303. APPLICATION TO STATE EMPLOYEES. All departments of the state of Idaho and all employees in such departments, except those employees specifically defined as nonclassified, shall be classified employees, who are subject to this chapter and to the system of personnel administration which it prescribes. Nonclassified employees shall be:

(a) Members of the state legislature and all other officers of the state of Idaho elected by popular vote, and persons appointed to fill vacancies in elective offices, and employees of the state legislature.

(b) Members of statutory boards and commissions and heads of departments appointed by and serving at the pleasure of the governor, deputy directors appointed by the director and members of advisory boards and councils appointed by the departments.

(c) All employees and officers in the office, and at the residence, of the governor; and all employees and officers in the offices of the lieutenant governor, secretary of state, attorney general, state treasurer, state controller, and state superintendent of public instruction who are appointed on and after the effective date of this chapter.

(d) Except as otherwise provided by law, not more than one (1) declared position for each board or commission and/or head of a participating department in addition to those declared to be nonclassified by other provisions of law.

(e) Part-time professional consultants who are paid on a fee basis for any form of legal, medical or other professional service, and who are not engaged in the performance of administrative duties for the state.

(f) Judges, temporary referees, receivers and jurors.

(g) All employees of the Idaho supreme court, Idaho court of appeals and district courts.

(h) All employees of the Idaho state bar.

(i) Assistant attorneys general attached to the office of the attorney general.

(j) Officers, members of the teaching staffs of state educational institutions, the professional staff of the Idaho department of education administered by the board of regents and the board of education, and the professional staffs of the Idaho division of professional-technical education and vocational rehabilitation administered by the state board for professional-technical education. "Teaching staff" includes teachers, coaches, resident directors, librarians and those principally engaged in academic research. The word "officer" means presidents, vice presidents, deans, directors, or employees in positions designated by the state board who receive an annual salary of not less than step "A" of the pay grade equivalent to three hundred fifty-five (355) Hay points in the state compensation schedule. A nonclassified employee who is designated as an "officer" on July 5, 1991, but does not meet the requirements of this subsection, may make a one (1) time irrevocable election to remain nonclassified. Such an election

must be made not later than August 2, 1991. When such positions become vacant, these positions will be reviewed and designated as either classified or nonclassified in accordance with this subsection.

(k) Employees of the military division.

(l) Patients, inmates or students employed in a state institution.

(m) Persons employed in positions established under federal grants, which, by law, restrict employment eligibility to specific individuals or groups on the basis of nonmerit selection requirements. Such employees shall be termed "project exempt" and the tenure of their employment shall be limited to the length of the project grant, or twenty-four (24) months, or four thousand one hundred sixty (4,160) hours of credited state service, whichever is of the shortest duration. No person hired on a project-exempt appointment shall be employed in any position allocated to the classified service.

(n) Temporary employees.

(o) All employees and officers of the following named commodity commissions, and all employees and officers of any commodity commission created hereafter: the Idaho potato commission, as provided in chapter 12, title 22, Idaho Code; the Idaho honey 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, all employees of the stem action center, all employees of the office of species conservation, all employees of the office of drug policy and all employees of the office of energy resources.

(w) All employees of the Idaho food quality assurance institute.

(x) The state appellate public defender, deputy state appellate public defenders and all other employees of the office of the state appellate public defender.

(y) All quality assurance specialists or medical investigators of the Idaho board of medicine.

(z) All pest survey and detection employees and their supervisors hired specifically to carry out activities under the Idaho plant pest act, chapter 20, title 22, Idaho Code, including but not limited to pest survey, detection and eradication, except those positions involved in the management of the program.

Approved March 9, 2016

CHAPTER 34
(H.B. No. 461)

AN ACT

RELATING TO FEES; AMENDING SECTION 31-3201H, IDAHO CODE, TO PROVIDE THAT A CERTAIN PORTION OF SURCHARGE FEES SHALL BE DEPOSITED IN THE STATE GENERAL FUND; AND AMENDING SECTION 1-1625, IDAHO CODE, TO REMOVE A CODE REFERENCE.

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

SECTION 1. That Section 31-3201H, Idaho Code, be, and the same is hereby amended to read as follows:

31-3201H. SURCHARGE FEE. (1) The court shall charge a surcharge fee to be paid by each defendant for each criminal offense or infraction committed on or after April 15, 2010, for which the defendant is found or pleads guilty. Such fee shall be in addition to all other fines and fees levied.

(2) The amount of the surcharge fee shall be as follows:

(a) For each felony, the fee shall be one hundred dollars (\$100);

(b) For each misdemeanor, the fee shall be fifty dollars (\$50.00); and

(c) For each infraction, the fee shall be ten dollars (\$10.00).

(3) The fee shall be collected by the clerk of the district court and shall be paid to the county treasurer, who shall, within five (5) days after the end of the month, pay such fees to the state treasurer, who shall deposit eighty percent (80%) of such fees in the ~~drug court, mental health court and family court services~~ state general fund created by section 1-1625, Idaho Code, and twenty percent (20%) of such fees in the court technology fund created by section 1-1623, Idaho Code.

SECTION 2. That Section 1-1625, Idaho Code, be, and the same is hereby amended to read as follows:

1-1625. DRUG COURT, MENTAL HEALTH COURT AND FAMILY COURT SERVICES FUND. There is hereby created in the office of the state treasurer a special fund to be known as the drug court, mental health court and family court services fund. Moneys deposited into the fund pursuant to sections 19-4705, ~~and 23-217 and 31-3201H~~, Idaho Code, subject to appropriation by the legislature, shall be used by the supreme court for the operations of drug courts and mental health courts, including drug testing, substance abuse treatment and supervision, mental health assessment, treatment and supervision, and related court programs, as provided in chapter 56, title 19, Idaho Code, for the purpose of assisting children and families in the courts, as provided in chapter 14, title 32, Idaho Code, and for other court services as provided by statute.

Law without signature.

CHAPTER 35
(S.B. No. 1219)

AN ACT

RELATING TO PUBLIC WORKS CONTRACTS; AMENDING SECTION 54-4511, IDAHO CODE, TO PROVIDE FOR COMPENSATION OF CONSTRUCTION MANAGERS AND GENERAL CONTRACTORS, TO PROVIDE THAT CERTAIN COSTS MAY BE INCORPORATED INTO A CONTRACT, TO PROVIDE THAT CERTAIN BIDS SHALL BE HANDLED IN A PARTICULAR MANNER, TO CLARIFY HOW CONSTRUCTION MANAGERS AND GENERAL CONTRACTORS MAY BID, TO PROVIDE THAT CERTAIN TERMS SHALL BE INCLUDED IN CERTAIN CONTRACTS AND TO REMOVE A PROVISION RELATING TO COMPENSATION.

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

SECTION 1. That Section 54-4511, Idaho Code, be, and the same is hereby amended to read as follows:

54-4511. AWARD OF CONTRACTS -- DUAL CAPACITY. (1) Construction manager representative (CMR). A licensed construction manager and the firm of which he is a principal or full-time employee may be awarded a contract to act only as representative for an owner. In soliciting bids or awarding contracts for public works construction to be entered into by the owner, a licensed construction manager representative shall comply with all notice and bidding laws with which an owner would be required to comply if it were to do the same activities without the assistance of a construction manager. A licensed construction manager representative and the firm of which he is a principal or employee shall not provide construction management services for a construction project on which the licensed construction manager or his firm also provides design services or other construction related services, whether as a contractor or subcontractor. Provided however, that this section shall not preclude a licensed architect or registered professional engineer from providing public works construction management services which are normally provided by licensed architects or registered professional engineers for a project on which the person or firm has provided design services. Such public works construction management services provided by a licensed architect or registered professional engineer shall not include the procurement of equipment or construction work required by law to be competitively bid for public works construction.

(2) Construction manager/general contractor (CM/GC). A licensed construction manager and the firm of which he is a principal or full-time employee may be awarded a contract to act as both construction manager and general contractor provided the construction manager/general contractor has a valid public works contractor license as a general contractor pursuant to section 54-1902, Idaho Code.

(3) Compensation of a construction manager/general contractor shall be determined pursuant to section 67-2320, Idaho Code.

(4) At such time as the design of a project or a phase of a project is available, the construction work, materials and equipment for construction of a project may be incorporated into the construction manager/general contractor contract based upon bids solicited from licensed public works contractors and from suppliers for all construction work, materials and equipment.

(5) For each portion of the work, competitive bids shall be solicited from not less than three (3) contractors or suppliers deemed to be qualified by the construction manager/general contractor. All bids shall be opened publicly in the presence of a representative of the public entity for whom the project is undertaken and, once opened, bids shall be subject to the public record requirements outlined in title 74, Idaho Code.

(6) All construction work, materials and equipment shall be awarded to the lowest responsive qualified bidder. For good cause, the public entity may approve the award of bids based upon fewer than three (3) bids.

(7) The construction manager/general contractor, or its subsidiaries and affiliated companies, may bid to perform construction work or to supply materials or equipment only if it holds a valid license pursuant to section 54-1902, Idaho Code, and for which it customarily self-performs or supplies such construction work, materials or equipment; provided, the public entity may limit the amount of work the construction manager/general contractor, including its subsidiaries and affiliated companies, may perform under the contract. Bids from the construction manager/general contractor and its subsidiaries or affiliated companies must be opened at the opening of any other bids.

(8) When bidding for all phases of the project has been completed, a guaranteed maximum price for the entire project may be negotiated by the public entity.

(9) No public entity shall enter into a contract with any person or firm for construction management services as construction manager representative or as construction manager/general contractor if such person or firm is required to be licensed under this chapter unless:

(a) Such person holds a valid license or such firm holds a valid certificate issued pursuant to this chapter; and

(b) The selection of such construction manager representative or construction manager/general contractor is made pursuant to section 67-2320, Idaho Code; and

(c) All terms of the contract including, but not limited to, terms for management fees, incentive compensation and disposition of any contingency fund, if applicable, are agreed upon in writing.

~~(4) Compensation of a construction manager shall be determined pursuant to section 67-2320, Idaho Code. At such time as the design of a project is available, the construction work, materials and equipment for construction of a project may be incorporated into the construction manager/general contractor contract based upon bids solicited from licensed public works contractors and from suppliers. All construction work, materials and equipment shall be competitively bid to be opened publicly in the presence of a representative of the public body for whom the project is undertaken and shall be awarded to the lowest responsible bidders. The construction manager/general contractor, or its subsidiaries and affiliated companies, may bid to perform construction work or supply materials or equipment for which it holds a valid license pursuant to section 54-1902, Idaho Code, and which it customarily self-performs or supplies.~~

Approved March 15, 2016

CHAPTER 36
(S.B. No. 1229)

AN ACT

RELATING TO MOTOR VEHICLES; AMENDING CHAPTER 10, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-1004B, IDAHO CODE, TO PROVIDE THAT FOR SPECIFIED PURPOSES, THE INTERSTATE SYSTEM, WHICH SHALL BE CONSIDERED TO CONSIST OF SPECIFIED ROUTES, IN IDAHO IS DEEMED A NONINTERSTATE HIGHWAY AND TO PROVIDE THAT FOR SPECIFIED PURPOSES, THE INTERSTATE SYSTEM, WHICH SHALL BE CONSIDERED TO CONSIST OF SPECIFIED ROUTES, IN IDAHO IS DEEMED A DESIGNATED STATE ROUTE.

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

SECTION 1. That Chapter 10, 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 49-1004B, Idaho Code, and to read as follows:

49-1004B. PERMITS FOR OVERWEIGHT OR OVERSIZE LOADS -- INTERSTATE SYSTEM. Exclusively for the purposes of section 49-1001(1)(c), Idaho Code, the interstate system, which shall be considered to consist of I-15, I-84, I-86, I-90 and I-184, in Idaho is deemed a noninterstate highway. Exclusively for the purposes of section 49-1004(4), Idaho Code, the interstate system, which shall be considered to consist of I-15, I-84, I-86, I-90 and I-184, in Idaho is deemed a designated state route.

Approved March 15, 2016

CHAPTER 37
(S.B. No. 1249)

AN ACT

RELATING TO THE STEM ACTION CENTER BOARD; AMENDING CHAPTER 8, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-825, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING THE STEM ACTION CENTER BOARD'S MEETINGS, HONORARIUM AND EXPENSES, AND ORGANIZATION.

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

SECTION 1. That Chapter 8, 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 67-825, Idaho Code, and to read as follows:

67-825. STEM ACTION CENTER BOARD -- MEETINGS -- HONORARIUM AND EXPENSES -- ORGANIZATION. (1) The STEM action center board shall hold no fewer than four (4) regular meetings annually at such time and place as may be directed by the board. Special meetings may be called by the chair at any time and place designated in such call.

(2) Each member shall be compensated as provided in section 59-509(c), Idaho Code.

(3) At its first meeting after the first day of July in each year, the STEM action center board shall organize and shall elect from its membership a chairperson and a vice chairperson.

Approved March 15, 2016

CHAPTER 38
(S.B. No. 1259)

AN ACT

RELATING TO THE IDAHO DAIRY PRODUCTS COMMISSION; AMENDING SECTION 25-3102, IDAHO CODE, TO REMOVE PROVISIONS REGARDING EX OFFICIO MEMBERS OF THE COMMISSION; AND AMENDING SECTION 25-3107, IDAHO CODE, TO REVISE PROVISIONS REGARDING NOMINATING COMMITTEES, TO REVISE A PROVISION REGARDING PETITIONS FOR NOMINATION OF PRODUCER MEMBERS, TO PROVIDE THAT BALLOTS FOR ELECTING MEMBERS WILL BE MAILED BY THE COMMISSION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 25-3102, Idaho Code, be, and the same is hereby amended to read as follows:

25-3102. DAIRY PRODUCTS COMMISSION -- ESTABLISHMENT -- MEMBERS. ~~(1)~~ There is hereby created and established in the department of self-governing agencies the "Idaho dairy products commission" to be composed of nine (9) producer members, three (3) from each of the three (3) commission districts referred to in section 25-3104, Idaho Code, who shall be elected by the producers of said districts as hereinafter set forth, and they shall hold office for a term of three (3) years.

~~(2) The dean of the college of agricultural and life sciences, university of Idaho, or his duly authorized representative, and a duly authorized representative of the Idaho milk processors association, shall be ex officio members without vote of the commission.~~

SECTION 2. That Section 25-3107, Idaho Code, be, and the same is hereby amended to read as follows:

25-3107. PRODUCER MEMBERS -- NOMINATIONS -- ELECTIONS. Producer members of the commission shall be nominated and elected by producers within the district that such producer members represent in the year in which a commission member's term shall expire. Such producer members receiving the largest number of the votes cast in the respective districts which they represent shall be elected. The election shall be by secret mail ballot and under the supervision of the department.

Nomination for candidates to be elected to the commission shall be conducted by a nominating committee consisting of at least one (1) Idaho dairy products commission board member from each district. A commissioner who is up for reelection shall not serve on the committee. Thirty (30) days prior to the date of election, ~~the commission shall select a nominating committee from the district, which in turn will present the names of three (3) qualified nominees;~~ at least one (1) and not more than three (3) qualified names per district to be placed on the ballot. ~~In addition thereto, producer members of the commission may be nominated by a petition of nomination signed by not less than twenty-five~~ ten (2510) active producers, each of whom shall reside in the district wherein the nominee resides, and the names of all such nominees nominated by petition shall be presented to the department not later than ~~the first day of May 1~~ of the year in which the election for such district is to be held.

Ballots for electing members to the commission will be mailed by the ~~department~~ commission to all eligible producers no later than May 15 in districts where elections are to be held and such ballots to be valid shall be returned postmarked no later than May 31 of the year mailed to the department.

All costs and expenses of the department shall be paid by the commission. All materials and other necessary supplies shall be provided to the department at its request.

Approved March 15, 2016

CHAPTER 39
(S.B. No. 1270)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE BENEFIT PAYMENTS PROGRAM FOR FISCAL YEAR 2016; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE HEALTHCARE POLICY INITIATIVES PROGRAM FOR FISCAL YEAR 2016; 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 216, Laws of 2015, and any other appropriation provided for by law, there is hereby appropriated \$2,114,300 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, 2015, through June 30, 2016.

SECTION 2. In addition to the appropriation made in Section 1, Chapter 238, Laws of 2015, and any other appropriation provided for by law, there is hereby appropriated \$1,263,800 from the Cooperative Welfare (Federal) Fund to the Department of Health and Welfare for the Healthcare Policy Initiatives Program, to be expended for operating expenditures, for the period July 1, 2015, through June 30, 2016.

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 15, 2016

CHAPTER 40
(S.B. No. 1271)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISION OF MEDICAID FOR FISCAL YEAR 2016; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISION OF MEDICAID FOR FISCAL YEAR 2016; 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 185, Laws of 2015, 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 the designated programs and expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MEDICAID ADMINISTRATION AND MEDICAL MGMT:			
FROM:			
Cooperative Welfare (General)			
Fund	\$155,200		\$155,200
Cooperative Welfare (Federal)			
Fund	<u>1,240,400</u>		<u>1,240,400</u>
TOTAL	\$1,395,600		\$1,395,600
II. COORDINATED MEDICAID PLAN:			
FROM:			
Cooperative Welfare (General)			
Fund		\$1,415,500	\$1,415,500
Cooperative Welfare (Federal)			
Fund		<u>2,651,800</u>	<u>2,651,800</u>
TOTAL		\$4,067,300	\$4,067,300
III. ENHANCED MEDICAID PLAN:			
FROM:			
Cooperative Welfare (General)			
Fund		\$5,104,000	\$5,104,000
Cooperative Welfare (Federal)			
Fund		<u>12,496,000</u>	<u>12,496,000</u>
TOTAL		\$17,600,000	\$17,600,000
IV. BASIC MEDICAID PLAN:			
FROM:			
Idaho Health Insurance Access Card			
Fund		\$330,000	\$330,000
Cooperative Welfare (Federal)			
Fund		<u>7,275,000</u>	<u>7,275,000</u>
TOTAL		\$7,605,000	\$7,605,000
GRAND TOTAL	\$1,395,600	\$29,272,300	\$30,667,900

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 185, Laws of 2015, is hereby reduced by the following amounts, according to the designated programs and expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MEDICAID ADMINISTRATION AND MEDICAL MGMT:			
FROM:			
Cooperative Welfare (General)			
Fund		\$155,200	\$155,200
Idaho Health Insurance Access Card			
Fund	\$114,000		114,000
Cooperative Welfare (Federal)			
Fund	<u>0</u>	<u>1,126,400</u>	<u>1,126,400</u>
TOTAL	\$114,000	\$1,281,600	\$1,395,600
II. BASIC MEDICAID PLAN:			
FROM:			
Cooperative Welfare (General)			
Fund		\$7,605,000	\$7,605,000
GRAND TOTAL	\$114,000	\$8,886,600	\$9,000,600

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 15, 2016

CHAPTER 41
(S.B. No. 1232)

AN ACT
RELATING TO VOCATIONAL REHABILITATION; AMENDING SECTION 33-2301, IDAHO
CODE, TO REVISE A REFERENCE TO A FEDERAL ACT.

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

SECTION 1. That Section 33-2301, Idaho Code, be, and the same is hereby amended to read as follows:

33-2301. ACCEPTANCE OF FEDERAL ACTS. The state of Idaho hereby renews its acceptance of the provisions and benefits of the act of Congress, entitled "An act to provide for the promotion of vocational rehabilitation of persons with disabilities, other than those who are legally blind, and their return to employment," and further accepts "The Rehabilitation Act of 1973," P.L. 93-112, 93rd Congress, and "~~The Rehabilitation Act Amendments of 1998,~~" P.L. ~~105-220, 105th Congress~~ as amended by the "Workforce Innovation and Opportunity Act of 2014," P.L. 113-128, 113th Congress, and all subsequent amendments thereto, and will observe and comply with all requirements of such acts.

Approved March 15, 2016

CHAPTER 42
(S.B. No. 1268)

AN ACT

RELATING TO THE COUNCIL ON DEVELOPMENTAL DISABILITIES; AMENDING SECTION 67-6704, IDAHO CODE, TO REVISE PROVISIONS REGARDING COUNCIL MEMBERSHIP AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-6704, Idaho Code, be, and the same is hereby amended to read as follows:

67-6704. COMPOSITION. (1) The council shall consist of twenty-three (23) members to be appointed by the governor, at least sixty percent (60%) of whom shall be individuals with developmental disabilities, parents or guardians of children with developmental disabilities, or immediate relatives or guardians of adults with mentally impairing developmental disabilities who cannot advocate for themselves. These members shall not represent any other category of membership.

(2) At least five (5) of the members shall be persons with a developmental disability, and at least seven (7) of the members shall be parents or guardians of such persons, ~~and who are not officers or employees of an entity or state agency which receives funds for, or provides services to, developmentally disabled persons~~ children with a developmental disability. One (1) additional member shall be either a person with a developmental disability or the parent of a person child with a developmental disability. These members shall not be employees of a state agency that receives funds or provides services under P.L. 106-402 or managing employees of any other entity that receives funds or provides services under P.L. 106-402. For purposes of this subsection, "managing employee" shall have the same meaning as in 42 U.S.C. 1320a-5(b).

(3) The principal state agencies concerned with services or programs affecting individuals with developmental disabilities shall be represented as members of the council, including entities responsible for administering funds under:

- (a) The rehabilitation act of 1973 (29 U.S.C. ~~section~~ 701 et seq.);
- (b) The individuals with disabilities education act (20 U.S.C. ~~section~~ 1400 et seq.);
- (c) The older ~~a~~Americans act of 1965 (42 U.S.C. ~~section~~ 3001 et seq.);
- (d) Titles V and XIX of the social security act (42 U.S.C. ~~section~~ 701 et seq. and ~~section~~ 42 U.S.C. 1396 et seq.).

(4) The council shall also have representation from:

- (a) The state protection and advocacy organization;
- (b) The university center for excellence in developmental disabilities education, research and service.

One (1) representative may represent more than one (1) program or service.

(5) The remainder of the members shall be representatives of local and nongovernmental agencies and private nonprofit groups concerned with services for individuals with developmental disabilities pursuant to P.L. 106-402 and council bylaws required by section 67-6707(2), Idaho Code.

(6) The membership of the council shall be geographically representative of the state and reflect the diversity of the state with respect to race and ethnicity.

Approved March 15, 2016

CHAPTER 43
(S.B. No. 1290)

AN ACT

RELATING TO TEACHERS; AMENDING SECTION 33-1212A, IDAHO CODE, TO REVISE A CATCHLINE, TO REVISE PROVISIONS REGARDING COLLEGE AND CAREER ADVISORS AND TO REVISE REPORTING REQUIREMENTS.

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

SECTION 1. That Section 33-1212A, Idaho Code, be, and the same is hereby amended to read as follows:

33-1212A. ~~ACADEMIC AND COLLEGE OR AND CAREER ADVISORS AND STUDENT MENTORS.~~ (1) ~~Academic and eCollege or and~~ college or and career advising and student mentoring is an essential component of students' educational experience. Such advising and mentoring provide all students with an early opportunity to identify academic strengths, areas in need of improvement and areas of interest for the purpose of making informed choices and setting postsecondary education and career goals. The focus of ~~academic college~~ college and career planning is to help students acquire the knowledge and skills necessary to achieve academic success and to be college and career ready upon high school graduation.

(2) School districts and charter schools may employ noncertificated staff to serve in the role of ~~academic and college or and~~ college or and career advisors and student mentors. Appropriate alternative forms of advising and mentoring shall be research-based and may include the following:

- (a) High contact programs such as:
 - (i) Near peer or college student mentors; and
 - (ii) Counselor, teacher or paraprofessional as advisor or mentor;
- (b) Collaborative programs such as:
 - (i) Student ambassadors; and
 - (ii) Cooperative agreements with other school districts or postsecondary institutions; and
- (c) Virtual coach or mentor programs.

(3) School districts and charter schools shall provide professional development in the area of college and career advising to ~~certificated counselors and instructional staff as well as noncertificated~~ all staff serving in the role of student mentors or advisors. All individuals providing services in the role of an ~~academic and college or and~~ college or and career advisor must have a basic level of training or experience in the area of advising or mentoring to provide such services.

(4) School districts and charter schools shall develop a plan to deliver college and career advising to students in grades 8 through 12.

(5) School districts and charter schools shall notify parents or guardians of all students in grades 8 through 12 of the availability of college ~~or and~~ college or and career advising provided by the district and how to access such services.

(56) School districts and charter schools shall report annually on the effectiveness of their ~~academic and college or and~~ college or and career advising programs in a form and time established by the state board of education through the promulgation of rules as part of their annual continuous improvement plan. Reports shall include:

- (a) The type of program being implemented; and
- (b) Student outcomes indicating the effectiveness of the program.

(7) The state board of education shall promulgate rules to specify those student outcomes that can be used to satisfy the reporting requirement, as well as other rules necessary for the administration of this section.

Approved March 15, 2016

CHAPTER 44
(S.B. No. 1314)

AN ACT

RELATING TO TRUST INSTITUTIONS; AMENDING SECTION 26-3205, IDAHO CODE, TO PROVIDE THAT CERTAIN PERSONS ACTING AS A TRUSTEE SHALL NOT REQUIRE A CHARTER.

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

SECTION 1. That Section 26-3205, Idaho Code, be, and the same is hereby amended to read as follows:

26-3205. ACTIVITIES NOT REQUIRING A CHARTER. Notwithstanding any other provision of this act, a person does not engage in the trust business or in any other business in a manner requiring a charter under this act, or in an unauthorized trust activity by:

(1) Acting in a manner authorized by law and in the scope of authority as an agent of a trust institution with respect to an activity which is not an unauthorized trust activity;

(2) Obtaining trust business as a result of an existing attorney-client relationship or certified public accountant-client relationship;

(3) Acting as trustee under a deed of trust delivered only as security for the payment of money or for the performance of another act;

(4) Receiving and distributing rents and proceeds of sale as a licensed real estate broker on behalf of a principal in a manner authorized by the Idaho real estate commission;

(5) Engaging in a securities transaction or providing an investment advisory service as a licensed and registered broker-dealer, investment advisor or registered representative thereof, provided the activity is regulated by the Idaho department of finance or the securities and exchange commission;

(6) Engaging in the sale and administration of an insurance product by an insurance company or agent licensed by the Idaho department of insurance to the extent that the activity is regulated by the Idaho department of insurance;

(7) Engaging in the lawful sale of prepaid funeral contracts under a permit issued by the Idaho board of morticians or engaging in the lawful business of a perpetual care cemetery under the Idaho endowment care cemetery act;

(8) Acting as trustee under a voting trust as provided by the Idaho business corporation act;

(9) Acting as trustee by a public, private, or independent institution of higher education or a university system, including its affiliated foundations or corporations, with respect to endowment funds or other funds owned, controlled, provided to or otherwise made available to such institution with respect to its educational or research purposes;

(10) Engaging in other activities expressly excluded from the application of this act, by rule of the director;

(11) Acting as a fiduciary for relatives;

(12) Provided the company is a trust institution and is not barred by order of the director from engaging in a trust business in this state pursuant to section 26-3603(2), Idaho Code:

(a) Marketing or soliciting in this state through the mails, telephone, any electronic means or in person with respect to acting or proposing to act as a fiduciary outside of this state;

(b) Delivering money or other intangible assets and receiving the same from a client or other person in this state; or

(c) Accepting or executing outside of this state a trust of any client or otherwise acting as a fiduciary outside of this state for any client;

(13) Acting pursuant to court appointment as:

(a) A personal representative of a decedent's estate; or

(b) A guardian or conservator of an estate;

(14) Acting as a trustee, but only if such person is an individual and does not engage in the trust business as defined in section 26-3203(30), Idaho Code.

Approved March 15, 2016

CHAPTER 45
(S.B. No. 1267)

AN ACT

RELATING TO MASTERY-BASED EDUCATION; AMENDING SECTION 33-1630, IDAHO CODE, AS ENACTED BY SECTION 1, CHAPTER 68, LAWS OF 2015, TO REDESIGNATE THE SECTION, TO CLARIFY THE NUMBER OF LOCAL EDUCATION AGENCIES IDENTIFIED FOR A CERTAIN INITIAL COHORT AND TO ALLOW THE STATE DEPARTMENT OF EDUCATION TO EXPEND OR DISTRIBUTE CERTAIN MONEYS.

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

SECTION 1. That Section 33-1630, Idaho Code, as enacted by Section 1, Chapter 68, Laws of 2015, be, and the same is hereby amended to read as follows:

33-16302. 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 up to twenty (20) local education agencies to serve as incubators in fiscal year 2017.

(3) The state department of education may expend or distribute moneys appropriated for purposes identified in subsection (2) of this section. 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.

Approved March 15, 2016

CHAPTER 46
(H.B. No. 445)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 2016; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 2016; AUTHORIZING AN ADDITIONAL FULL-TIME EQUIVALENT POSITION FOR FISCAL YEAR 2016; 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 261, Laws of 2015, and any other appropriation provided for by law, there is hereby appropriated to the Department of Agriculture, the following amounts to be expended for 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. ADMINISTRATION:					
FROM:					
Facilities Maintenance					
Fund	\$8,000				\$8,000
II. PLANT INDUSTRIES:					
FROM:					
General					
Fund	\$50,000	\$200,000			\$250,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. AGRICULTURAL INSPECTIONS:					
FROM:					
Agricultural Fees - Organic Food Products					
Fund	\$24,000	\$32,400	\$8,900		\$65,300
Agricultural Fees - Fresh Fruit and Vegetable Inspection					
Fund	<u>735,200</u>	<u>964,000</u>	<u>0</u>		<u>1,699,200</u>
TOTAL	\$759,200	\$996,400	\$8,900		\$1,764,500
IV. MARKET DEVELOPMENT:					
FROM:					
Federal Grant					
Fund		\$500,000		\$500,000	\$1,000,000
GRAND TOTAL	\$817,200	\$1,696,400	\$8,900	\$500,000	\$3,022,500

SECTION 2. Notwithstanding any other provision of law to the contrary, the appropriation made to the Department of Agriculture in Section 1, Chapter 261, Laws of 2015, is hereby reduced by the following amounts, according to the designated programs and expense classes, from the listed funds for the period July 1, 2015, through June 30, 2016:

	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:			
FROM:			
Facilities Maintenance			
Fund	\$8,000		\$8,000
II. PLANT INDUSTRIES:			
FROM:			
Federal Grant			
Fund	500,000	\$500,000	1,000,000
GRAND TOTAL	\$508,000	\$500,000	\$1,008,000

SECTION 3. FTP AUTHORIZATION. The full-time equivalent position authorization provided to the Department of Agriculture in Section 2, Chapter 261, Laws of 2015, is increased by one (1) for the period July 1, 2015, through June 30, 2016.

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 15, 2016

CHAPTER 47
(S.B. No. 1218)

AN ACT

RELATING TO CODIFIER'S CORRECTIONS; AMENDING SECTION 19-853, IDAHO CODE, TO MAKE A CODIFIER'S CORRECTION; AMENDING SECTION 19-860, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 26-106, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 26-3203, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 26-3205, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTIONS 30-2003 THROUGH 30-2009, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTION 30-21-804, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 31-709, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 33-1021, IDAHO CODE, AS ENACTED BY SECTION 1, CHAPTER 310, LAWS OF 2011, TO REDESIGNATE THE SECTION; AMENDING SECTION 33-1630, IDAHO CODE, AS ENACTED BY SECTION 2, CHAPTER 289, LAWS OF 2015, TO REDESIGNATE THE SECTION; AMENDING SECTION 33-1630, IDAHO CODE, AS ENACTED BY SECTION 1, CHAPTER 68, LAWS OF 2015, TO REDESIGNATE THE SECTION; AMENDING SECTION 34-439A, IDAHO CODE, TO MAKE CODIFIER'S CORRECTIONS; AMENDING SECTION 34-616, IDAHO CODE, TO MAKE A CODIFIER'S CORRECTION; AMENDING SECTION 36-1402, IDAHO CODE, TO MAKE A CODIFIER'S CORRECTION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 47-319, IDAHO CODE, TO MAKE CODIFIER'S CORRECTIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-102, IDAHO CODE, TO MAKE A CODIFIER'S CORRECTION; AMENDING SECTION 49-402, IDAHO CODE, TO MAKE A CODIFIER'S CORRECTION; AMENDING SECTION 49-420N, IDAHO CODE, AS ENACTED BY SECTION 2, CHAPTER 8, LAWS OF 2015, TO REDESIGNATE THE SECTION; AMENDING THE HEADING FOR CHAPTER 56, TITLE 54, IDAHO CODE, AS ENACTED BY SECTION 1, CHAPTER 121, LAWS OF 2015, TO REDESIGNATE THE CHAPTER; AMENDING SECTIONS 54-5601 THROUGH 54-5606, IDAHO CODE, AS ENACTED BY SECTION 1, CHAPTER 121, LAWS OF 2015, TO REDESIGNATE THE SECTIONS; AMENDING SECTION 54-5607, IDAHO CODE, AS ENACTED BY SECTION 1, CHAPTER 121, LAWS OF 2015, TO REDESIGNATE THE SECTION AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTIONS 54-5608 THROUGH 54-5613, IDAHO CODE, AS ENACTED BY SECTION 1, CHAPTER 121, LAWS OF 2015, TO REDESIGNATE THE SECTIONS; AMENDING SECTION 59-1604, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 61-1702, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-2345A, IDAHO CODE, AS ENACTED BY SECTION 2, CHAPTER 271, LAWS OF 2015, TO REDESIGNATE THE SECTION, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-2601A, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 67-4740, IDAHO CODE, TO MAKE A CODIFIER'S CORRECTION AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 67-7441, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

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

SECTION 1. That Section 19-853, Idaho Code, be, and the same is hereby amended to read as follows:

19-853. DUTY TO NOTIFY ACCUSED OR DETAINED OF RIGHT TO COUNSEL. (1) If a person who is being detained by a law enforcement officer, or who is confined or who is the subject of hospitalization proceedings pursuant to section 66-322, 66-326, 66-329, 66-404 or 66-406, Idaho Code, or who is under formal charge of having committed, or is being detained under a conviction of, a serious crime, is not represented by an attorney under conditions in which a person having his own counsel would be entitled to be so represented,

the law enforcement officers concerned, upon commencement of detention, or the court, upon formal charge or hearing, as the case may be, shall:

(a) Clearly inform him of his right to counsel and of the right of an indigent person to be represented by an attorney at public expense; and

(b) If the person detained or charged does not have an attorney, notify the defending attorney or trial court concerned, as the case may be, that he is not so represented. As used in this subsection, the term "commencement of detention" includes the taking into custody of a probationer.

(2) Upon commencement of any later judicial proceeding relating to the same matter including, but not limited to, preliminary hearing, arraignment, trial, any post-conviction proceeding or post-commitment proceeding, the presiding officer shall clearly inform the person so detained or charged of his right to counsel and of the right of an indigent person to be represented by an attorney at public expense. Provided, the appointment of an attorney at public expense in uniform post-conviction procedure act proceedings shall be in accordance with section 19-4904, Idaho Code.

(3) If a court determines that the person is entitled to be represented by an attorney at public expense, it shall promptly notify the defending attorney.

(4) Upon notification by the court ~~or assignment under this section~~, the defending attorney shall represent the person with respect to whom the notification is made.

SECTION 2. That Section 19-860, Idaho Code, be, and the same is hereby amended to read as follows:

19-860. PUBLIC DEFENDER ~~---TERM~~ -- COMPENSATION -- APPOINTMENT -- QUALIFICATIONS. If the board of county commissioners of a county elects to establish and maintain an office of public defender and/or juvenile public defender or a joint office of public defender, the board shall:

(1) Prescribe the qualifications of such public defender and his rate of annual compensation, and, if so desired by the board, a rate of compensation for extraordinary services not recurring on a regular basis. So far as is possible, the compensation paid to such public defender shall not be less than the compensation paid to the county prosecutor for that portion of his practice devoted to criminal law.

(2) Provide for the establishment, maintenance and support of his office. The board of county commissioners shall appoint a public defender and/or juvenile public defender from a panel of not more than five (5) and not fewer than three (3) persons, if that many are available, designated by a committee of lawyers appointed by the administrative judge of the judicial district encompassing the county or his designee. To be a candidate, a person must be licensed to practice law in this state and must be competent to counsel and defend a person charged with a crime.

SECTION 3. That Section 26-106, Idaho Code, be, and the same is 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 noth-

ing 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) "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.

(4) "Borrowing" means any nondeposit liability.

(5) "Branch" means any location except a 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.

(6) "Capital" means the amount of unimpaired paid-up common stock plus the amount of paid-up preferred stock issued and unimpaired.

(7) "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.

(8) "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.

(9) "Common stock" means the stock of a banking corporation other than preferred stock.

(10) "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.

(11) "Converting bank" means a bank converting from a state to a national bank, or the reverse.

(12) "Demand deposit" means all deposits except time deposits.

(13) "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.

(14) "Depositor" means any person who deposits money.

(15) "Director" means the director of the department of finance.

(16) "Dissenting stockholder" means a stockholder dissenting and voting his dissent as provided in this act.

(17) "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.

(18) "Federal funds" means member bank deposits at federal reserve banks.

(19) "Federal reserve act" means and includes the act of congress of the United States approved December 23, 1913, as amended.

(20) "Federal reserve bank" means a federal reserve bank created and organized under the authority of the federal reserve act.

(21) "Federal reserve board" means the board of governors of the federal reserve system created and described in the federal reserve act.

(22) "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.

(23) "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.

(26) "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.

(27) "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.

(28) "Merging bank" means a party to a merger.

(29) "Mobile or temporary facility" means a place of business of a bank from which the bank performs limited activities for limited periods of time.

(30) "National bank" means a bank organized under the laws of the United States and issued an organization certificate by the comptroller of the currency.

(31) "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.

(32) "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.

(33) "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.

(34) "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.

(35) "Resulting bank" means the bank resulting from a merger or conversion.

(36) "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.

(37) "State bank" means any bank chartered by the state of Idaho.

(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 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 4. That Section 26-3203, Idaho Code, be, and the same is hereby amended to read as follows:

26-3203. DEFINITIONS. The following definitions shall be liberally construed to accomplish the purposes of this act. In this act, unless the context otherwise requires:

(1) "Account" means the client relationship established with a trust institution involving the transfer of funds or property to the trust institution, including a relationship in which the trust company acts as trustee, executor, administrator, guardian, custodian, conservator, bailee, receiver, registrar, or agent, but excluding a relationship in which the trust institution acts solely in an advisory capacity.

(2) "Act as a fiduciary" or "acting as a fiduciary" means to:

(a) Accept or execute trusts, including to:

(i) Act as trustee under a written agreement;

(ii) Receive money or other property in its capacity as trustee for investment in real or personal property;

(iii) Act as trustee and perform the fiduciary duties committed or transferred to it by order of a court of competent jurisdiction;

(iv) Act as trustee of the estate of a deceased person; or

(v) Act as trustee for a minor or incapacitated person;

(b) Administer in any other fiduciary capacity real or tangible personal property; or

(c) Act pursuant to order of court of competent jurisdiction as executor or administrator of the estate of a deceased person or as a guardian or conservator for a minor or incapacitated person.

(3) "Authorized trust institution" means any state trust company, trust office or representative trust office.

(4) "Bank" has the meaning set forth in 12 U.S.C. 1813(h) ; provided that the term "bank" shall not include any "foreign bank" as defined in 12 U.S.C. 3101(7) , except for any such foreign bank organized under the laws of a territory of the United States, Puerto Rico, Guam, American Samoa or the Virgin Islands, the deposits of which are insured by the federal deposit insurance corporation.

(5) "Bank supervisory agency" means:

(a) Any agency of another state with primary responsibility for chartering and supervising a trust institution; and

(b) The office of the comptroller of the currency, the federal deposit insurance corporation, the board of governors of the federal reserve system, the office of thrift supervision and any successor to these agencies.

(6) "Branch" with respect to a depository institution has the meaning set forth in section 26-106, Idaho Code.

(7) "Charter" means the authority issued by the director or a bank supervisory agency authorizing a trust institution to act as a fiduciary in its home state.

(8) "Client" means a person to whom a trust institution owes a duty or obligation under a trust or other account administered by the trust institution or as an advisor or agent, regardless of whether the trust institution owes a fiduciary duty to the person. The term includes the noncontingent beneficiaries of an account.

(9) "Company" includes a bank, trust company, corporation, limited liability company, partnership, association, business trust or another trust.

(10) "Department" means the Idaho department of finance.

(11) "Depository institution" means any company chartered to act as a fiduciary and included for any purpose within any of the definitions of "insured depository institution" as set forth in 12 U.S.C. 1813(c) (2) and (3) .

(12) "Director" means the director of the department of finance.

(13) "Foreign bank" means a foreign bank, as defined in section 1(b) (7) of the international banking act of 1978, chartered to act as a fiduciary in a state other than this state.

(14) "Home state" means:

(a) With respect to a federally chartered trust institution and a foreign bank, the state in which such institution maintains its principal office; and

(b) With respect to any other trust institution, the state which chartered such institution.

(15) "Home state regulator" means the bank supervisory agency with primary responsibility for chartering and supervising an out-of-state trust institution.

(16) "Host state" means a state, other than the home state of a trust institution, or a foreign country in which the trust institution maintains or seeks to acquire or establish an office.

(17) "New trust office" means a trust office located in a host state which:

(a) Is originally established by the trust institution as a trust office; and

(b) Does not become a trust office of the trust institution as a result of:

- (i) The acquisition of another trust institution or trust office of another trust institution; or
- (ii) A merger, consolidation, or conversion involving any such trust institution or trust office.

(18) "Office" with respect to a trust institution means the principal office, a trust office or a representative trust office, but not a branch.

(19) "Out-of-state bank" means a bank chartered to act as a fiduciary in any state or states other than this state.

(20) "Out-of-state trust company" means either a trust company that is not a state trust company or a savings association whose principal office is not located in this state.

(21) "Out-of-state trust institution" means a trust institution that is not a state trust institution.

(22) "Person" means an individual, a company or any other legal entity.

(23) "Principal office" with respect to:

(a) A state trust company, means a location registered with the director as the state trust company's home office at which:

- (i) The state trust company does business;
- (ii) The state trust company keeps its corporate books and a set of its material records, including material fiduciary records; and
- (iii) At least one (1) executive officer of the state trust company maintains an office.

(b) A trust institution other than a state trust company, means its principal place of business in the United States.

(24) "Representative trust office" means an office at which a trust institution has been authorized by the director to engage in a trust business other than acting as a fiduciary.

(25) "Savings association" means a depository institution that is neither a bank nor a foreign bank.

(26) "State" means any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands and the Northern Mariana Islands.

(27) "State bank" means:

(a) A bank which has received a charter from the director authorizing it to operate a trust department; or

(b) A foreign bank as defined in section 1(b)(7) of the international banking act of 1978 chartered to act as a fiduciary in this state.

(28) "State trust company" means a corporation organized under this act and chartered to act as a fiduciary by the state, including a trust company organized under the laws of this state before the effective date of this act.

(29) "State trust institution" means a trust institution having its principal office in this state.

(30) "Trust business" means the holding out by a person to the public by advertising, solicitation or other means that the person is available to perform any service of a fiduciary in this or another state including, but not limited to:

(a) Acting as a fiduciary; or

(b) To the extent not acting as a fiduciary, any of the following:

- (i) Receiving for safekeeping personal property of every description;
- (ii) Acting as assignee, bailee, conservator, custodian, escrow agent, registrar, receiver or transfer agent; or
- (iii) Acting as financial advisor, investment advisor or manager, agent or attorney-in-fact in any agreed upon capacity.

(31) "Trust company" means a state trust company or any other company chartered to act as a fiduciary that is neither a depository institution nor a foreign bank.

(32) "Trust institution" means a depository institution, foreign bank, state bank or trust company.

(33) "Trust office" means an office, other than the principal office, at which a trust institution is licensed by the director to act as a fiduciary.

(34) "Unauthorized trust activity" means:

(a) A person, other than one identified in section 26-3204(1), Idaho Code, acting as a fiduciary within this state;

(b) A person engaging in a trust business in this state at any office of such person that is not its principal office, if it is a state trust institution, or that is not a trust office or a representative trust office of such person, unless the person has been authorized by the director, in his discretion, to engage in a trust business in this state in another manner and upon such conditions as he may require; or

(c) An out-of-state trust institution engaging in a trust business in this state at any time an order issued by the director pursuant to section 26-3603-~~(2)~~-1115, Idaho Code, is in effect.

SECTION 5. That Section 26-3205, Idaho Code, be, and the same is hereby amended to read as follows:

26-3205. ACTIVITIES NOT REQUIRING A CHARTER. Notwithstanding any other provision of this act, a person does not engage in the trust business or in any other business in a manner requiring a charter under this act, or in an unauthorized trust activity by:

(1) Acting in a manner authorized by law and in the scope of authority as an agent of a trust institution with respect to an activity which is not an unauthorized trust activity;

(2) Obtaining trust business as a result of an existing attorney-client relationship or certified public accountant-client relationship;

(3) Acting as trustee under a deed of trust delivered only as security for the payment of money or for the performance of another act;

(4) Receiving and distributing rents and proceeds of sale as a licensed real estate broker on behalf of a principal in a manner authorized by the Idaho real estate commission;

(5) Engaging in a securities transaction or providing an investment advisory service as a licensed and registered broker-dealer, investment advisor or registered representative thereof, provided the activity is regulated by the Idaho department of finance or the securities and exchange commission;

(6) Engaging in the sale and administration of an insurance product by an insurance company or agent licensed by the Idaho department of insurance to the extent that the activity is regulated by the Idaho department of insurance;

(7) Engaging in the lawful sale of prepaid funeral contracts under a permit issued by the Idaho board of morticians or engaging in the lawful business of a perpetual care cemetery under the Idaho endowment care cemetery act;

(8) Acting as trustee under a voting trust as provided by the Idaho business corporation act;

(9) Acting as trustee by a public, private, or independent institution of higher education or a university system, including its affiliated foundations or corporations, with respect to endowment funds or other funds owned, controlled, provided to or otherwise made available to such institution with respect to its educational or research purposes;

(10) Engaging in other activities expressly excluded from the application of this act, by rule of the director;

(11) Acting as a fiduciary for relatives;

(12) Provided the company is a trust institution and is not barred by order of the director from engaging in a trust business in this state pursuant to section 26-3603(2)-1115, Idaho Code:

(a) Marketing or soliciting in this state through the mails, telephone, any electronic means or in person with respect to acting or proposing to act as a fiduciary outside of this state;

(b) Delivering money or other intangible assets and receiving the same from a client or other person in this state; or

(c) Accepting or executing outside of this state a trust of any client or otherwise acting as a fiduciary outside of this state for any client;

(13) Acting pursuant to court appointment as:

(a) A personal representative of a decedent's estate; or

(b) A guardian or conservator of an estate.

SECTION 6. That Section 30-2003, Idaho Code, be, and the same is hereby amended to read as follows:

30-2003. INCORPORATION. A benefit corporation shall be incorporated in accordance with part 2, chapter 129, title 30, Idaho Code, but its articles of incorporation must also state that it is a benefit corporation.

SECTION 7. That Section 30-2004, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ 30-29-1105, Idaho Code.

SECTION 8. That Section 30-2005, Idaho Code, be, and the same is hereby amended to read as follows:

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 corporation 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~~ 30-29-1105, 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.

SECTION 9. That Section 30-2006, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ 30-29-301, 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~~ 30-29-301, 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)~~ 30-29-1303(2), Idaho Code, by having the purpose to create general public benefit or a specific public benefit.

SECTION 10. That Section 30-2007, Idaho Code, be, and the same is hereby amended to read as follows:

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 directors, 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 in-

terest 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~~ 30-29-830, 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~~ 30-29-830, 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.

SECTION 11. That Section 30-2008, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ 30-29-803 through 30-29-809, 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 personal liability of directors authorized by section ~~30-1-202~~ 30-29-202, 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.

SECTION 12. That Section 30-2009, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ 30-29-841 and 30-29-842, 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~~ 30-29-841 and 30-29-842, 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.

SECTION 13. That Section 30-21-804, Idaho Code, be, and the same is hereby amended to read as follows:

30-21-804. NAME USED AS ASSUMED BUSINESS NAME. (a) On or after July 1, 2014⁵, an assumed business name:

(1) Must comply with section 30-21-301 (a) and (e), Idaho Code; and

(2) May not contain any of the words or abbreviations required for an entity under section 30-21-302, Idaho Code; and

(3) May not be only the true name of an individual.

(b) The name of a filing entity or limited liability partnership does not have to be distinguishable from an assumed business name in a certificate of assumed business name filed before the entity's public organic record, statement of qualification, or foreign entity registration statement is filed, and the assumed business name is not invalidated by the subsequent filing by the filing entity or limited liability partnership.

SECTION 14. That Section 31-709, Idaho Code, be, and the same is hereby amended to read as follows:

31-709. RECORDS TO BE KEPT. The board must cause to be kept permanently and indefinitely, in accordance with the provisions of sections ~~9-331 and 9-332~~ 31-871A, Idaho Code:

1. Minute records, in which must be recorded all orders and decisions made by them, and the daily proceedings had at all regular and special meetings.

2. Allowance records, in which must be recorded all orders for the allowance of money from the county treasury, to whom made, and on what account, dating, numbering and indexing the same through each year.

3. Road records, containing all proceedings and adjudications relating to the establishment, maintenance, change and discontinuance of roads, road districts, and overseers thereof, their reports and accounts.

4. Franchise records, containing all franchises granted by them, for what purpose, the length of time and to whom granted, the amount of bond and license tax required.

5. Warrant records, to be kept by the county auditor, in which must be entered, in the order of drawing, all warrants drawn on the treasury, with their number and reference to the order on the minute book, with the date, amount, on what account, and name of payee.

6. Ordinance records, containing all ordinances, stating the date enacted.

7. Resolutions records, containing all resolutions, stating the date adopted.

SECTION 15. That Section 33-1021, Idaho Code, as enacted by Section 1, Chapter 310, Laws of 2011, be, and the same is hereby amended to read as follows:

33-10213. MONEYS PROVIDED FROM UNANTICIPATED PUBLIC CHARTER SCHOOL CLOSURE. In the event a public charter school closes and ceases to provide educational instruction during the course of a school year, the following provisions relating to funding shall apply:

(1) A school district or public charter school shall report to the state department of education all newly enrolled students when such students have enrolled from a public charter school that has closed during a school year.

(2) The state department of education shall use the reported enrollment information provided for in subsection (1) of this section to calculate the funding that the district or public charter school would have received had those reported new enrollees been enrolled in such district for the entire school year. Such funding shall be prorated based on the percent of days left in the school year following the enrollment of new students. Such funding shall be included in the next scheduled payment to the school district or public charter school.

SECTION 16. That Section 33-1630, Idaho Code, as enacted by Section 2, Chapter 289, Laws of 2015, be, and the same is hereby amended to read as follows:

33-16301. REQUIREMENTS FOR HARASSMENT, INTIMIDATION AND BULLYING INFORMATION AND PROFESSIONAL DEVELOPMENT. (1) School districts and charter schools shall undertake reasonable efforts to ensure that information on harassment, intimidation and bullying of students is disseminated annually to all school personnel, parents and students, including an affirmation that school personnel are authorized and expected to intervene or facilitate intervention on behalf of students facing harassment, intimidation or bullying.

(2) School districts and charter schools shall provide ongoing professional development to build skills of all school staff members to prevent, identify and respond to harassment, intimidation and bullying. The state board shall promulgate rules regarding the content of the professional development required by this subsection.

(3) District policies shall include a series of graduated consequences that may include, but are not limited to, referral to counseling, diversion, use of juvenile specialty courts, restorative practices, on-site suspension and expulsion for any student who commits an act of bullying, intimidation, harassment, violence or threats of violence. Guidelines for such policies will be set forth in the rules of the state board.

(4) Annually school districts shall report bullying incidents to the state department of education in a format set forth in rule by the state board. District policy shall designate persons to whom bullying reports are to be made and a procedure for a teacher or other school employee, student, parent, guardian or other person to report or otherwise provide information on bullying activity.

SECTION 17. That Section 33-1630, Idaho Code, as enacted by Section 1, Chapter 68, Laws of 2015, be, and the same is hereby amended to read as follows:

33-16302. 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 18. That Section 34-439A, Idaho Code, be, and the same is hereby amended to read as follows:

34-439A. DISCLOSURES IN ELECTIONS TO AUTHORIZE LEVY. (1) Notwithstanding any other provision of law except for the provisions of section

63-802(1)(g), Idaho Code, any taxing district that proposes to submit any question to the electors of the district that would authorize any levy, except for the levies authorized for the purposes provided in sections 63-802(1)(g) and 33-802(4), Idaho Code, and except for levies relating to bonded indebtedness where section 34-439, Idaho Code, applies, shall include in the ballot question, or in a brief official statement on the ballot but separate from the ballot question, a disclosure setting forth in simple, understandable language information on the proposal substantially as follows:

(a) The purpose for which the levy shall be used; the date of the election; and the dollar amount estimated to be collected each year from the levy; and

(b) The length of time, reflected in months or years, in which the proposed levy will be assessed.

(2) The information called for in subsection (1) of this section shall be placed prior to the location on the ballot where a person casts a vote and shall also be included in like manner in the official notice of the election.

SECTION 19. That Section 34-616, Idaho Code, be, and the same is hereby amended to read as follows:

34-616. ELECTION -- SELECTION -- OF DISTRICT JUDGES -- QUALIFICATIONS. (1) At the primary election, 1974, and every four (4) years thereafter, subject to the provisions of section 34-1217, Idaho Code, there shall be elected in each judicial district a sufficient number of district judges to fill any vacancy or vacancies occasioned by the expiration of the term or terms of office of any member or members.

(2) To be elected to the office of district judge a person must, at the time of such election, meet all of the following qualifications:

(a) Be at least thirty (30) years of age;

(b) Be a citizen of the United States and an elector in the judicial district in which elected;

(c) Have been a legal resident of the state of Idaho for at least two (2) continuous years immediately preceding such election;

(d) Have been in good standing as an active or judicial member of the Idaho state bar for at least two (2) continuous years immediately preceding such election; and

(e) Have held a license to practice law or held a judicial office in one (1) or more jurisdictions for at least ten (10) continuous years immediately preceding such election. ~~within~~

(3) Each candidate for election shall file a declaration of candidacy with the secretary of state.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of one hundred fifty dollars (\$150) which shall be deposited in the general fund.

(5) To be appointed to the office of district judge a person must, at the time of such appointment, meet all of the following qualifications:

(a) Be at least thirty (30) years of age;

(b) Be a citizen of the United States and an elector of the state of Idaho;

(c) Have been a legal resident of the state of Idaho for at least two (2) continuous years immediately preceding such appointment;

(d) Have been in good standing as an active or judicial member of the Idaho state bar for at least two (2) continuous years immediately preceding such appointment; and

(e) Have held a license to practice law or held a judicial office in one (1) or more jurisdictions for at least ten (10) continuous years immediately preceding such appointment.

(6) For purposes of this section, the following terms have the following meanings:

- (a) "Active," "judicial" and "good standing" have the same definitions as those terms are given by rule 301 of the Idaho bar commission rules or any successors to those rules;
- (b) "Jurisdiction" means a state or territory of the United States, the District of Columbia or any branch of the United States military; and
- (c) "Elector" means one who is lawfully registered to vote.

SECTION 20. 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, any person who pleads guilty to or is found guilty of an infraction of this code, or rules or proclamations promulgated pursuant thereto, shall be 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~~X), 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

(d) 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.

(e) 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 (f) 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 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.

(f) 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.

(g) 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.

(h) Disposition of Fines and Forfeitures. Distribution of fines and forfeitures remitted shall be in accordance with section 19-4705, Idaho Code.

SECTION 21. 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 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~~ saltwater; (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 74-107, 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~~ chapter 1, title 74, 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~~ saltwater and ~~oil-field~~ 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 22. 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.

(9) "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.

(10) "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.

(11) "All-terrain vehicle" or "ATV" means an all-terrain vehicle or ATV as defined in section 67-7101, Idaho Code.

(12) "Amateur radio operator." (See "Radio operator, amateur," section 49-119, Idaho Code)

(13) "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.

(14) "Applicant" means an individual who applies to obtain, transfer, upgrade, or renew a driver's license.

(15) "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.

(16) "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.

(17) "Armed forces" means the army, navy, marine corps, coast guard and the air force of the United States.

(18) "Authorized emergency vehicle." (See "Vehicle," section 49-123, Idaho Code)

(19) "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.

(20) "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).

(21) "Auto transporter" means a vehicle combination constructed for the purpose of transporting vehicles.

(212) "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 23. 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	\$69.00
Vehicles three (3) and four (4) years old	\$57.00
Vehicles five (5) and six (6) years old	\$57.00
Vehicles seven (7) and eight (8) years old	\$45.00
Vehicles over eight (8) years old	\$45.00

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 nineteen dollars (\$19.00) 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, 49-420M, and 49-420N and 49-420NO, 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 24. That Section 49-420N, Idaho Code, as enacted by Section 2, Chapter 8, Laws of 2015, be, and the same is hereby amended to read as follows:

49-420NO. 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.

SECTION 25. That the Heading for Chapter 56, Title 54, Idaho Code, as enacted by Section 1, Chapter 121, Laws of 2015, be, and the same is hereby amended to read as follows:

CHAPTER 567
IDAHO TELEHEALTH ACCESS ACT

SECTION 26. That Section 54-5601, Idaho Code, as enacted by Section 1, Chapter 121, Laws of 2015, be, and the same is hereby amended to read as follows:

54-56701. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Telehealth Access Act."

SECTION 27. That Section 54-5602, Idaho Code, as enacted by Section 1, Chapter 121, Laws of 2015, be, and the same is hereby amended to read as follows:

54-56702. 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.

SECTION 28. That Section 54-5603, Idaho Code, as enacted by Section 1, Chapter 121, Laws of 2015, be, and the same is hereby amended to read as follows:

54-56703. 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.

SECTION 29. That Section 54-5604, Idaho Code, as enacted by Section 1, Chapter 121, Laws of 2015, be, and the same is hereby amended to read as follows:

54-56704. 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.

SECTION 30. That Section 54-5605, Idaho Code, as enacted by Section 1, Chapter 121, Laws of 2015, be, and the same is hereby amended to read as follows:

54-56705. 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.

SECTION 31. That Section 54-5606, Idaho Code, as enacted by Section 1, Chapter 121, Laws of 2015, be, and the same is hereby amended to read as follows:

54-56706. 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.

SECTION 32. That Section 54-5607, Idaho Code, as enacted by Section 1, Chapter 121, Laws of 2015, be, and the same is hereby amended to read as follows:

54-56707. PRESCRIPTIONS. (1) A provider with an established provider-patient relationship, including a relationship established pursuant to section 54-56705, 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.

SECTION 33. That Section 54-5608, Idaho Code, as enacted by Section 1, Chapter 121, Laws of 2015, be, and the same is hereby amended to read as follows:

54-56708. INFORMED CONSENT. A patient's informed consent for the use of telehealth services shall be obtained as required by any applicable law.

SECTION 34. That Section 54-5609, Idaho Code, as enacted by Section 1, Chapter 121, Laws of 2015, be, and the same is hereby amended to read as follows:

54-56709. 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.

SECTION 35. That Section 54-5610, Idaho Code, as enacted by Section 1, Chapter 121, Laws of 2015, be, and the same is hereby amended to read as follows:

54-56710. 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.

SECTION 36. That Section 54-5611, Idaho Code, as enacted by Section 1, Chapter 121, Laws of 2015, be, and the same is hereby amended to read as follows:

54-56711. **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.

SECTION 37. That Section 54-5612, Idaho Code, as enacted by Section 1, Chapter 121, Laws of 2015, be, and the same is hereby amended to read as follows:

54-56712. **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.

SECTION 38. That Section 54-5613, Idaho Code, as enacted by Section 1, Chapter 121, Laws of 2015, be, and the same is hereby amended to read as follows:

54-56713. **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.

SECTION 39. That Section 59-1604, Idaho Code, be, and the same is hereby amended to read as follows:

59-1604. **CREDITED STATE SERVICE.** (1) For the purposes of payroll, vacation or annual leave, sick leave and other applicable purposes, credited state service shall be earned by:

(a) The elective officers of the executive department, except the lieutenant governor;

(b) Nonclassified officers and employees of any department, commission, division, agency or board of the executive department, except for part-time members of boards, commissions and committees;

(c) Officers and employees of the legislative department, except members of the house of representatives and the senate.

(2) Eligible nonclassified officers and employees shall accrue credited state service at the same rate and under the same conditions as is provided in section 67-5332, Idaho Code, for classified officers and employees.

(3) Members of the legislature, the lieutenant governor, and members of part-time boards, commissions and committees, shall not be eligible for annual leave or sick leave.

(4) Credited state service for those officers and employees identified by section 67-5303(i-j), Idaho Code, shall be as determined by the state board of education, except no such officer or employee shall be credited with more than two thousand eighty (2,080) hours during any twelve (12) month period.

Any policy and procedures determined by the state board of education must be communicated to the state controller in writing at least one hundred eighty (180) days in advance of the effective date of the policy and procedures.

(5) Service for retirement purposes shall be as provided in chapter 13, title 59, Idaho Code, or in chapter 20, title 1, Idaho Code.

SECTION 40. That Section 61-1702, Idaho Code, be, and the same is hereby amended to read as follows:

61-1702. DEFINITIONS. (1) "Affected landowner" includes owners of property interests, as reflected in the most recent county or city tax records as receiving the tax notice, whose property:

(a) Is directly affected, either crossed or used, by the proposed transmission line, including all facility sites, rights-of-way, access roads and temporary work spaces; and

(b) Abuts either side of an existing right-of-way or facility site owned in fee by any utility company, or abuts the edge of a proposed transmission line or right-of-way which runs along a property line in the area in which the transmission line would be constructed, or contains a residence within fifty (50) feet of the proposed transmission line.

(2) "Application" means any request by a transmitting utility for a route certificate for the construction and operation of new transmission facilities or the modification of existing transmission facilities located in a national interest electric transmission corridor in Idaho.

(3) "Commission" means the Idaho public utilities commission.

(4) "Local government" means a city or county.

(5) "National interest electric transmission corridor" is any geographic area designated by the secretary of energy as experiencing electric energy transmission capacity constraints or congestion pursuant to section 1221 of the energy policy act of 2005.

(6) "Secretary" means the secretary of the United States department of energy.

(7) "Transmission facility" means:

(a) Newly constructed high voltage transmission lines with an operating level capacity of one hundred fifteen thousand (115,000) volts or more;

(b) Rebuilt and upgraded existing high voltage transmission lines with an operating level capacity of at least fifty-seven thousand (57,000) volts to one hundred fifteen thousand (115,000) volts or more along the same right-of-way; or

(c) Electric facilities associated with high voltage transmission lines such as substations, switchyards or temporary contractor work yards.

(78) "Transmitting utility" is an entity that owns, operates or controls facilities used for the transmission of electric energy in interstate commerce.

SECTION 41. That Section 67-2345A, Idaho Code, as enacted by Section 2, Chapter 271, Laws of 2015, be, and the same is hereby amended to read as follows:

67-2345A 74-206A. NEGOTIATIONS IN OPEN SESSION. (1) All negotiations between a governing body and a labor organization shall be in open session and shall be available for the public to attend. This requirement also applies to negotiations between the governing body's designated representatives and representatives of the labor organization. This requirement shall also apply to meetings with any labor negotiation arbitrators, mediators or

similar labor dispute meeting facilitators. Provided, however, a governing body or its designated representatives may hold an executive session for the specific purpose of:

(a) Considering a labor contract offer or to formulate a counteroffer; or

(b) Receiving information about a specific employee, when the information has a direct bearing on the issues being negotiated and a reasonable person would conclude that the release of that information would violate that employee's right to privacy.

(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 governing body shall post notice of all negotiation sessions at the earliest possible time practicable. This shall be done by the governing body by immediately posting notice of the negotiation session on the front page of its official website. If time permits, the governing body shall also post notice within twenty-four (24) hours at its regular meeting physical posting locations.

(4) Public testimony, if any, shall be posted as an agenda item.

SECTION 42. 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 43~~1~~, title 39, Idaho Code, relating to the building code board; chapter 40, title 39, Idaho Code, relating to manufactured homes; chapter 43, 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 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.

(5) 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.

(6) 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.

(7) 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 43. That Section 67-4740, Idaho Code, be, and the same is hereby amended to read as follows:

67-4740. AGREEMENT WITH APPLICANT. 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; and

(i) and Identification of the individual or entity that is or will be claiming the refundable credit.

SECTION 44. 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~~1~~(8) and (9), Idaho Code, shall be subject to disclosure according to 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.

Approved March 16, 2016

CHAPTER 48
(S.B. No. 1339)

AN ACT

RELATING TO OIL AND GAS; AMENDING SECTION 47-317, IDAHO CODE, TO REMOVE PROVISIONS REGARDING EMPLOYMENT OF PERSONNEL AND CONTRACTING FOR SERVICES, TO PROVIDE FOR THE AUTHORITY OF THE DEPARTMENT OF LANDS, TO REMOVE CERTAIN PROVISIONS REGARDING HEARINGS, TO REMOVE PROVISIONS RELATING TO THE DESIGNATION OF HEARING OFFICERS AND CONTESTED HEARINGS AND TO PROVIDE THAT THE COMMISSION SHALL FOLLOW CERTAIN PROCEDURES; AMENDING SECTION 47-318, IDAHO CODE, TO REVISE DEFINITIONS AND TO DEFINE TERMS; AMENDING SECTION 47-320, IDAHO CODE, TO PROVIDE A PROCEDURE REGARDING APPLICATIONS FOR PERMITS OR CERTAIN AUTHORIZATIONS TO DRILL OR TREAT WELLS AND TO PROVIDE THAT THE DEPARTMENT OF LANDS SHALL COLLECT SPECIFIED FEES; AMENDING SECTION 47-321, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT SHALL HAVE SPECIFIED RESPONSIBILITIES ASSOCIATED WITH SPACING UNITS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 47-322, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT SHALL HAVE SPECIFIED RESPONSIBILITIES REGARDING INTEGRATION, TO REVISE PROVISIONS REGARDING INTEGRATION, TO PROVIDE FOR THE DESIGNATION OF OPERATORS FOR INTEGRATED UNITS, TO PROVIDE FOR OPTIONS TO BE SET FORTH IN INTEGRATION ORDERS, TO PROVIDE FOR APPLICATIONS FOR ORDERS OF INTEGRATION, TO PROVIDE FOR NOTICE TO CERTAIN OWNERS, TO PROVIDE FOR THE CONFIDENTIALITY OF CERTAIN INFORMATION AND TO PROVIDE THAT APPLICATIONS SHALL BE SUBJECT TO SPECIFIED PROCEDURES; AMENDING SECTION 47-323, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT SHALL HAVE SPECIFIED RESPONSIBILITIES REGARDING UNIT OPERATIONS AND TO REVISE PROVISIONS REGARDING APPLICATIONS FOR UNIT OPERATIONS; AMENDING SECTION 47-324, IDAHO CODE, TO REVISE AND TO SET FORTH PROVISIONS AND PROCEDURES ASSOCIATED WITH RULEMAKING, COMPLAINTS, APPLICATION FOR ORDERS, PETITIONS, ORDERS AND APPEALS AND TO PROVIDE FOR JUDICIAL REVIEW OF ACTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 47-317, Idaho Code, be, and the same is hereby amended to read as follows:

47-317. OIL AND GAS CONSERVATION COMMISSION CREATED -- POWERS -- LIMIT ON LOCAL RESTRICTIONS -- ATTORNEY GENERAL. (1) There is hereby created an oil and gas conservation commission of the state of Idaho within the department of lands. The commission shall consist of five (5) members appointed by the governor with the advice and consent of the senate. The members shall serve at the pleasure of the governor. One (1) member shall be knowledgeable in oil and gas matters, one (1) member shall be knowledgeable in geological matters, one (1) member shall be knowledgeable in water matters, one (1) member shall be a private landowner who owns mineral rights with the surface in a county with oil and gas activity and one (1) member shall be a private landowner who does not own mineral rights.

(2) The term of office of each member of the commission shall be four (4) years, except that upon July 1, 2013, the governor shall appoint one (1) member for a term of one (1) year, one (1) member for a term of two (2) years, one (1) member for a term of three (3) years and two (2) members for terms of four (4) years. After the initial appointment, the governor shall appoint members to serve in office for a term of four (4) years commencing on July 1. A vacancy shall be filled by appointment for the unexpired term in the same manner provided for an appointment to the full term.

(3) The commission shall annually elect a chairman and a vice chairman from their membership. Such officers shall hold their respective offices until their successors are elected. If a vacancy occurs in either office, the commission shall elect a member to fill such office for the remainder of the term.

(4) The commission shall meet at least annually and thereafter on dates set by the commission. A majority of the voting members shall constitute a quorum.

(5) The members of the commission shall be compensated as provided in section 59-509(n), Idaho Code.

(6) Unless the commission appoints another person to be the secretary of the commission, the director of the department of lands shall be the secretary of the commission.

(7) ~~The commission may employ personnel as may be deemed necessary, prescribe their duties and fix their compensation. In the alternative, the commission may contract with the department of lands for services~~ The department of lands shall have the power to exercise, under the general control and supervision of the commission, all of the rights, powers and duties vested by law in the commission, except those provided in sections 47-324 and 47-325(c), Idaho Code.

(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~~ The commission shall follow procedures on applications as provided in section 47-324, Idaho Code, except as provided in sections 47-320(1)(a) and 47-325(c), Idaho Code.

(9) It is the intent of the legislature to occupy the field of the regulation of oil and gas exploration and production with the limited exception of the exercise of planning and zoning authority granted cities and counties pursuant to chapter 65, title 67, Idaho Code.

(10) To implement the purpose of the oil and gas conservation act, and to advance the public interest in the orderly development of the state's oil and gas resources, while at the same time recognizing the responsibility of local governments to protect the public health, safety and welfare, it is herein provided that:

(a) The commission will notice the respective city or county with jurisdiction upon receipt of an application and will remit, electronically, a copy of all application materials.

(b) No ordinance, resolution, requirement or standard of a city, county or political subdivision, except a state agency with authority,

shall actually or operationally prohibit the extraction of oil and gas; provided however, that extraction may be subject to reasonable local ordinance provisions, not repugnant to law, which protect public health, public safety, public order or which prevent harm to public infrastructure or degradation of the value, use and enjoyment of private property. Any ordinance regulating extraction enacted pursuant to chapter 65, title 67, Idaho Code, shall provide for administrative permitting under conditions established by ordinance, not to exceed twenty-one (21) days, unless extended by agreement of the parties or upon good cause shown.

(c) No ordinance, resolution, requirement or standard of a city, county or political subdivision, except a state agency with authority, shall actually or operationally prohibit construction or operation of facilities and infrastructure needed for the post-extraction processing and transport of gas and oil. However, such facilities and infrastructure shall be subject to local ordinances, regulations and permitting requirements, not repugnant to law, as provided in chapter 65, title 67, Idaho Code.

(11) The commission may sue and be sued in its administration of this act in any state or federal district court in the state of Idaho having jurisdiction of the parties or of the subject matter.

(12) The attorney general shall act as the legal advisor of the commission and represent the commission in all court proceedings and in all proceedings before it, and in any proceeding to which the commission may be a party before any department of the federal government.

SECTION 2. 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 opportunity of each owner in a pool to produce his just and equitable share of oil and gas in a pool without waste.

(d) "Department" means the Idaho department of lands.

(e) "Field" means the general area underlaid by one (1) or more pools.

(ef) "Gas" means any petroleum hydrocarbon existing in the gaseous phase, including condensate because it originally existed in the gaseous phase.

(fg) "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.

(gh) "Mineral interest" means the right to explore, drill or produce oil or gas lying beneath the surface of property.

(i) "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.

(hj) "Oil and gas" means oil or gas or both.

(k) "Operator" means any duly authorized person who is in charge of the development of a lease, pool, or spacing or unitized area, or the operation of a producing well.

(il) "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.

(jm) "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.

(kn) "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.

(lo) "Producer" means the owner of a well or wells capable of producing oil or gas or both.

(mp) "Reservoir" means a subsurface volume of porous and permeable rock in which oil or gas has accumulated.

(q) "Uncommitted owner" means one who is not leased or otherwise contractually obligated to the operator.

(nr) "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.

(es) "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.

(pt) The use of the plural includes the singular, and the use of the singular includes the plural.

SECTION 3. 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 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.~~

(a) Any request for a permit or authorization as set forth in subsection (3) (a), (b), (c), (d), (e), (f), (g), (m), (n) or (o) of this section

shall be made by application to the department of lands, and processed as provided in this section.

(b) The department shall notify the applicant within five (5) business days of receipt of an application if the application is administratively incomplete, and in such notice shall identify missing items to be supplied in order to make the application complete.

(c) The department shall notify the director of the department of water resources regarding permits to drill or treat a well. The director of water resources shall have ten (10) business days from the date of receipt of such notification from the department of lands to recommend conditions he believes necessary to protect fresh water supplies.

(d) Applications submitted under this section shall be posted on the department of lands's website for ten (10) calendar days for a written comment period.

(e) The department of lands shall approve or deny the application to drill or treat a well within fifteen (15) business days of receipt of a complete application.

(f) The department's decision made under this section may be appealed to the commission by the applicant pursuant to the procedure in section 47-324(d), (e), (f) and (g), Idaho Code.

(2) 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.

(23) ~~The commission~~ department 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

SECTION 4. That Section 47-321, Idaho Code, be, and the same is hereby amended to read as follows:

47-321. SPACING UNITS. (1) The commission department 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.

(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 department, result in the efficient and economical development of the pool as a whole. Any unit established by the commission department 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, the 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:

(a) If, 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 department 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 department's own motion determination.

(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 department 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.

(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 department 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 department 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 department 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 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.

(5) 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 department 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.

(6) An order establishing spacing units may be modified by the commission department 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.

(7) 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 department.

SECTION 5. That Section 47-322, Idaho Code, be, and the same is hereby amended to read as follows:

47-322. INTEGRATION OF TRACTS -- ORDERS OF COMMISSION DEPARTMENT. (a) When two (2) or more separately owned tracts are embraced within a spacing unit, or when there are separately owned interests in all or a part of a spacing unit, the interested persons may integrate their tracts or interests for the development and operation of the spacing unit. In the absence of voluntary integration, the commission department, upon the application of any interested person owner in that proposed spacing unit, shall make an order integrating integration of all tracts or interests in the spacing unit for the drilling of a well or wells, development and operation thereof and for the sharing of production therefrom. The commission department, as a part of the order establishing a spacing unit or units, may prescribe the terms and conditions upon which the royalty interests in the unit or units shall, in the absence of voluntary agreement, be deemed to be integrated without the necessity of a subsequent separate order integrating the royalty interests. Each such integration order shall be upon terms and conditions that are just and reasonable.

(b) All operations, including, but not limited to, the commencement, drilling, or operation of a well upon any portion of a spacing unit for which an integration order has been entered, shall be deemed for all purposes the conduct of such operations upon each separately owned tract in the spacing unit by the several owners thereof. That portion of the production allocated to a separately owned tract included in a spacing unit shall, when produced, be deemed, for all purposes, to have been actually produced from such tract by a well drilled thereon.

(c) Each such integration order shall authorize the drilling, equipping, and operation, or operation, of a well on the spacing unit; ~~shall provide who may drill and operate the well~~ designate an operator for the integrated unit; shall prescribe the time and manner in which all the owners in the spacing unit may elect to participate therein; and shall make provision for the payment by all those who elect to participate therein; of the reasonable actual cost thereof, plus a reasonable charge for supervision and interest. ~~If requested, e~~Each such integration order shall provide for one or more just and equitable alternatives whereby an owner who does not elect to participate in the risk and cost of the drilling and operation, or operation, of a well may elect to surrender his leasehold interest to the participating owners on some reasonable basis and for a reasonable consideration which, if not agreed upon, shall be determined by the commission, or may elect to participate in the drilling and operation, or operation, of the well, on a limited or carried basis upon terms and conditions determined by the commission to be just and reasonable the five following options:

(i) Working interest owner. An owner who elects to participate as a working interest owner shall pay the proportionate share of the actual costs of drilling and operating a well allocated to the owner's interest in the spacing unit. Working interest owners who share in the costs of drilling and operating the well are entitled to their respective shares of the production of the well. The operator of the integrated spacing unit and working interest owners shall enter into a joint operating agreement approved by the department in the integration order.

(ii) Nonconsenting working interest owner. An owner who refuses to share in the risk and actual costs of drilling and operating the well, but desires to participate as a working interest owner, is a nonconsenting working interest owner. Nonconsenting working interest owners are entitled to their respective shares of the production of the well, not to exceed one-eighth (1/8) royalty, until the operator of the integrated spacing unit has recovered up to three hundred percent (300%) of the nonconsenting working interest owner's share of the cost of drilling and operating the well under the terms set forth in the integration order. After all the costs have been recovered by the consenting owners in the spacing unit, the nonconsenting owner is entitled to his respective shares of the production of the well, and shall be liable for his pro rata share of costs as if the nonconsenting owner had originally agreed to pay the costs of drilling and operating the well. The operator of the integrated spacing unit and nonconsenting working interest owners shall enter into a joint operating agreement approved by the department in the integration order.

(iii) Leased. An owner may enter into a lease with the operator of the integrated spacing unit under the terms and conditions in the integration order. The owner shall receive one-eighth (1/8) royalty. The operator of an integrated spacing unit shall pay a leasing owner the same bonus payment per acre as the operator originally paid to other owners in the spacing unit prior to the issuance of the integration order.

(iv) Objector. If an owner objects to any participation or involvement of any kind in the unit, such owner may elect to be an objector. An objecting owner's interest will be deemed leased under the terms and conditions in the integration order. The owner shall receive one-eighth (1/8) royalty. Provided however, an objecting owner may elect to have any funds to which he would otherwise be entitled transferred to the STEM action center.

(v) Deemed leased. If an owner fails to make an election within the election period set forth in the integration order, such owner's interest will be deemed leased under the terms and conditions in the integration order. The owner shall receive one-eighth (1/8) royalty. The operator of an integrated spacing unit shall pay a leasing owner the same bonus payment per acre as the operator originally paid to other owners in the spacing unit prior to the issuance of the integration order.

If one or more of the owners shall drill, equip, and operate, or operate, or pay the costs of drilling, equipping, and operating, or operating, a well for the benefit of another person as provided for in an order of integration, then such owners or owner shall be entitled to the share of production from the spacing unit accruing to the interest of such other person, exclusive of a royalty not to exceed one-eighth (1/8) of the production, until the market value of such other person's share of the production, exclusive of such royalty, equals the sums payable by or charged to the interest of such other person. If there is a dispute as to the costs of drilling, equipping, or operating a well, the ~~commission~~ department shall determine such costs. In instances where a well is completed prior to the integration of interests in a spacing unit, the sharing of production shall be from the effective date of the integration, except that, in calculating costs, credit shall be given for the value of the owner's share of any prior production from the well.

(d) An application for an order integrating the tracts or interests in a spacing unit shall substantially contain and be limited to only the following:

- (i) The applicant's name and address;
- (ii) A description of the spacing unit to be integrated;
- (iii) A geologic statement concerning the likely presence of hydrocarbons;
- (iv) A statement that the proposed drill site is leased;

- (v) A statement of the proposed operations for the spacing unit, including the name and address of the proposed operator;
- (vi) A proposed joint operating agreement and a proposed lease form;
- (vii) A list of all uncommitted owners in the spacing unit to be integrated under the application, including names and addresses;
- (viii) An affidavit indicating that at least fifty-five percent (55%) of the mineral interest acres in the spacing unit support the integration application by leasing or participating as a working interest owner;
- (ix) An affidavit stating the highest bonus payment paid to a leased owner in the spacing unit being integrated prior to filing the integration application; and
- (x) A resume of efforts documenting the applicant's good faith efforts on at least two (2) separate occasions within a period of time no less than sixty (60) days to inform uncommitted owners of the applicant's intention to develop the mineral resources in the proposed spacing unit and desire to reach an agreement with uncommitted owners in the proposed spacing unit. Provided however, if any owner requests no further contact from the applicant, the applicant will be relieved of further obligation to attempt contact to reach agreement with that owner. At least one (1) contact must be by certified U.S. mail sent to an owner's last known address. If an owner is unknown or cannot be found, the applicant must publish a legal notice of its intention to develop and request that the owner contact the applicant in a newspaper in the county where the proposed spacing unit is located. The resume of efforts should indicate the applicant has made reasonable efforts to reach an agreement with all uncommitted owners in the proposed spacing unit. Reasonable efforts are met by complying with this subsection.

An application shall not be required to be in any particular format. An application shall not be denied or refused for incompleteness if it complies substantially with the foregoing informational requirements.

(e) At the time the integration application is filed with the department, the applicant shall certify that, for uncommitted owners who are unknown or cannot be found, a notice of the application was published in a newspaper in the county where the proposed spacing unit is located. Each published notice shall include notice to the affected uncommitted owner of the opportunity to respond to the application, and the deadline by which a response must be filed with the department.

(f) The information supplied by the applicant pursuant to subsection (d) (vii) of this section and the names and addresses of the uncommitted owners pursuant to subsection (d) (x) of this section shall be deemed trade secrets and kept confidential by the department until the well is producing in the proposed spacing unit, and thereafter shall be subject to disclosure pursuant to chapter 1, title 74, Idaho Code, provided that the information regarding an uncommitted owner shall be subject to disclosure to that owner.

(g) An application for integration shall be subject to the procedures set forth in section 47-324, Idaho Code.

SECTION 6. That Section 47-323, Idaho Code, be, and the same is hereby amended to read as follows:

47-323. 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~~ department 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~~ department 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~~ department, upon its own ~~motion~~ determination 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~~ department 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~~ department 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 An 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 shall be subject to the procedures set forth in section 47-324, Idaho Code.~~

(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~~ department, upon its own ~~motion~~ determination 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~~ department has been signed and approved in writing by the owners who, under the ~~commission's~~ department'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~~ department 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~~ department in the same manner and subject to the same conditions as an original order providing for the unit operation.
- (10) The ~~commission~~ department 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~~ department 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 department 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 department 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 department 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 department 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 department 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 department.

(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 department shall not be in violation of any statute of this state relating to trusts, monopolies, contracts or combinations in the restraint of trade.

SECTION 7. That Section 47-324, Idaho Code, be, and the same is hereby amended to read as follows:

47-324. RULES FOR COMMISSION -- ADMINISTRATIVE PROCEDURES. (a) The commission shall have authority to hear rulemaking proceedings, complaints filed with it pursuant to this chapter and appeals from the director's decision on an application filed pursuant to this chapter. The commission may prescribe rules governing the procedure before it, subject to the provisions of the administrative procedure act, chapter 52, title 67, Idaho Code.

(b) In all cases where (1) there is an application for the entry of a pooling order or (2) there is an application for an exception from an established well spacing pattern or (3) a complaint is made by the commission or any party person that any provision of this act, or any rule or order of the commission is being violated, notice of the any hearing to be held on such application or complaint, the commission shall be served notice on the interested parties by certified mail, return receipt requested, or in the same manner as is provided in the rules of civil procedure for the service of summons in civil actions. Where the interested party is unknown or cannot be located, the commission shall serve notice by publishing at least one (1) notice of the hearing to such person in a newspaper in the county where the affected tract is located. Such notice must be sent, delivered or published, as appropriate, at least five (5) business days before the date of the hearing.

(c) The commission may act upon its own motion, or upon the petition of any interested person. On the filing of a petition for a hearing concerning any matter within the jurisdiction of the commission, it shall promptly fix a date for a hearing thereon and shall cause notice of the hearing to be given. The hearing shall be held without undue delay after the filing of the petition. Proceedings before the commission and judicial review of actions taken by the commission pursuant thereto shall be governed by the provisions of chapter 52, title 67, Idaho Code. Any person affected by an order of the commission shall have the right at any time to apply to the commission to repeal, amend, modify, or supplement the same Except as provided in section 47-320(1) (a), Idaho Code, and subsection (b) of this section, any request for an order related to oil and gas activities within the commission's jurisdiction, other than a civil penalty proceeding pursuant to section 47-325, Idaho Code, or other enforcement action by the department of lands or the commission, shall be made by application to the department of lands.

(i) The department shall notify the applicant within five (5) business days of receipt of an application if the application is administratively incomplete, and in such notice shall identify the missing item or items to be supplied in order to make the application complete.

(ii) A decision on the merits of the application shall be made by the director. The director's decision shall not be subject to any motion for reconsideration or further review, except for appeal to the commission provided in subsection (d) of this section.

(iii) For applications involving an order regarding unit operations or integration of a drilling unit, the department shall send a copy of the application and supporting documents to all known and located uncommitted owners, to all working interest owners within the unit, and to the respective city or county where the proposed unit is located. The mailing shall include notice of the hearing date on which the director will consider the application. The application shall be redacted pursuant to section 47-322(f), Idaho Code, and sent by certified mail. Upon request, the applicant shall reimburse the department for actual mailing costs incurred under this subsection. For any uncommitted owners and working interest owners who cannot be located, an applicant shall publish notice of any application for an order once in a newspaper in the county in which the affected property is located, and request the department publish notice on its website, within seven (7) calendar days of filing of the complete application. Only an uncommitted owner in the affected unit may file an objection or other response to the applica-

tion, and the uncommitted owner shall file seven (7) calendar days before the hearing date provided in the notice.

(iv) For applications not involving paragraph (iii) of this subsection, including exceptional locations, any uncommitted owner within the area defined in the application may file an objection or other response to the application, and the uncommitted owner shall file seven (7) calendar days before the hearing date provided in the notice.

(v) The director shall hear an application within thirty (30) calendar days of the filing of a complete application. Discovery is not permitted. The director shall issue a written decision on any such application within thirty (30) calendar days of the hearing.

(d) The director's decision on an application for an order may be appealed to the commission by the applicant or any owner who filed an objection or other response to the application within the time required. An appeal must be filed with the director within fourteen (14) calendar days of the date of issuance of the director's written decision. The date of issuance shall be three (3) calendar days after the director deposits the decision in the U.S. mail, or the date on which he remits a decision electronically. Such appeal shall include the reasons and authority for the appeal, and shall identify any facts in the record supporting the appeal. Any person appealing shall serve a copy of the appeal materials on any other person who participated in the proceedings below, by certified mail, or by personal service. Any person who participated in the proceeding below may file a response to the appeal within five (5) calendar days of service of a copy of the appeal materials. The appellant shall provide the director with proof of service of the appeal materials on other persons as required in this section. The commission shall make a decision based on the record below as set forth in the written submittals of only the appellant and any other participating qualified person, the director's decision, and any oral argument taken by the commission at an appeal hearing.

(e) Appeals to the commission shall be heard at the next regularly scheduled commission hearing, or at a special meeting of the commission if determined by the commission. In no case will a hearing be later than thirty (30) days after the filing of an appeal. The commission may take argument from, but not new testimony of, the appellant and other qualified participating persons at the hearing. The commission shall make a decision on the appeal at the hearing and direct the department to issue a written order within five (5) business days of the hearing. The prevailing party shall draft a proposed written order and submit it to the department within two (2) business days. The final order of the commission shall not be subject to any motion for reconsideration.

(f) If no appeal is filed with the commission within the required time, the decision of the director shall become the final order.

(g) Judicial review of actions taken by the commission shall be governed by the provisions of chapter 52, title 67, Idaho Code. Only a person qualified under subsection (d) of this section who has completed the appeal procedures set forth in this section shall be considered to have exhausted administrative remedies as required in section 67-5271, Idaho Code.

(h) Each order shall include a reasoned statement in support of the decision, including a concise statement of facts supporting any findings, a statement of available procedures and time limits for appeals. Findings must be based exclusively on materials in the record. The applicant and any participating qualified person shall be served with a copy of the order. The order shall include or be accompanied by a certificate of service.

(i) Every application shall be signed by the applicant or his representative, and his address shall be stated thereon. The signature of the applicant or his representative constitutes a certificate by him that he has read the application and that to the best of his knowledge, information and belief there is good ground to support the same. Each application shall be

of such form and content and accompanied by the number of copies required by rule of the commission. Each application shall be accompanied by a fee as established in statute or rule.

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

Approved March 16, 2016

CHAPTER 49
(S.B. No. 1214)

AN ACT

RELATING TO LIVESTOCK; AMENDING CHAPTER 2, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-239, IDAHO CODE, TO DEFINE TERMS; AND AMENDING CHAPTER 2, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-240, IDAHO CODE, TO PROVIDE LIVESTOCK REMOVAL REQUIREMENTS.

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

SECTION 1. That Chapter 2, Title 25, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 25-239, Idaho Code, and to read as follows:

25-239. DEFINITIONS. When used in this chapter or in rules promulgated under this chapter:

(1) "Administrator" means the administrator of the division of animal industries, Idaho state department of agriculture, or his designee.

(2) "Approved feedlot" means a livestock feedlot, inspected and approved by the department, for finish feeding cattle or bison of unknown disease, test or vaccination status.

(3) "Approved trader lot" means a livestock facility operated by a livestock dealer licensed by the Idaho state brand board where cattle of unknown disease status are received and then sold and transported to other destinations. All approved trader lots must be inspected and approved by the department.

(4) "Buying station" means a livestock facility where cattle are gathered to be shipped directly to slaughter within seven (7) days of arrival at the buying station. All buying stations must be inspected and approved by the department.

(5) "Department" means the Idaho state department of agriculture.

(6) "Livestock dealer" means any person who buys livestock and offers them for resale within twenty (20) days from the date of purchase. All livestock dealers are required to be licensed by the Idaho state brand board.

(7) "Livestock market" means any facility where livestock are sold, received or shipped for profit. Anyone operating as a public livestock market must first secure a charter from the department. To maintain a charter, a public livestock market must conduct a minimum of one (1) sale per calendar year.

SECTION 2. That Chapter 2, Title 25, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 25-240, Idaho Code, and to read as follows:

25-240. LIVESTOCK REMOVAL REQUIREMENTS. Livestock removal requirements shall apply as follows:

(1) For approved feedlots, all animals must go to slaughter except under conditions specified in rule by the department.

(2) For approved trader lots, brucellosis test-eligible cattle that are sexually intact cattle over eighteen (18) months or pregnant or post-pregnant cattle of any age, must receive a health certificate prior to release for breeding or grazing purposes. Cattle destined for slaughter, an approved feedlot or a livestock market are exempt from this requirement. Cattle that are not brucellosis test-eligible are not required to receive a health certificate prior to release. All non-virgin bulls and all bulls over eighteen (18) months of age leaving a trader lot must be accompanied with a current negative trichomoniasis test or undergo three (3) negative trichomoniasis tests collected at least seven (7) days apart unless they are destined for slaughter, an approved feedlot or a livestock market.

(3) For buying stations, no health certificate or saleyard release is required because all buying station livestock must go directly to slaughter and cattle going to slaughter do not require a health certificate.

(4) For livestock dealers, if cattle are sold and are moving within the state, the only removal requirement is to receive a brand inspection. No health certificate is required. If cattle are crossing state lines, all livestock interstate movement requirements shall apply, which in most instances will include a health certificate.

(5) For livestock markets, all animals shall be inspected by an accredited veterinarian, confirmed to be free of disease and receive either a saleyard release form or health certificate to certify the livestock meet all requirements to ship to their destinations.

Approved March 16, 2016

CHAPTER 50
(S.B. No. 1221)

AN ACT

RELATING TO INSURANCE PRODUCER LICENSING; AMENDING SECTION 41-1016, IDAHO CODE, TO REVISE PROVISIONS REGARDING SUSPENSION OR REVOCATION OF NON-RESIDENT LICENSES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 41-1026, IDAHO CODE, TO REVISE PROVISIONS REGARDING LICENSURE AFTER REVOCATION OF OR REFUSAL TO CONTINUE A LICENSE AND TO PROVIDE THAT A LICENSE SHALL NOT BE ISSUED WITHIN A CERTAIN PERIOD OF TIME TO A PERSON WHOSE APPLICATION FOR A LICENSE WAS PREVIOUSLY DENIED; AND AMENDING SECTION 41-1108, 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 41-1016, Idaho Code, be, and the same is hereby amended to read as follows:

41-1016. ADMINISTRATIVE PENALTY -- SUSPENSION, REVOCATION, REFUSAL OF LICENSE. (1) The director may impose an administrative penalty not to exceed one thousand dollars (\$1,000), for deposit in the general fund of the state of Idaho, and may suspend for not more than twelve (12) months or may revoke or refuse to issue or continue any license issued under this chapter, chapter 27, title 41, Idaho Code (title insurance), chapter 11, title 41, Idaho Code (adjusters), or chapter 12, title 41, Idaho Code (surplus lines brokers), if the director finds that as to the licensee or applicant any one (1) or more of the following causes or violations exist:

(a) Providing incorrect, misleading, incomplete or materially untrue information in the license application;

- (b) Violating any provision of title 41, Idaho Code, department rule, subpoena or order of the director or of another state's insurance director;
 - (c) Obtaining or attempting to obtain a license through misrepresentation or fraud;
 - (d) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;
 - (e) Misrepresenting the terms of an actual or proposed insurance contract or application for insurance or misrepresenting any fact material to any insurance transaction or proposed transaction;
 - (f) Being convicted of or pleading guilty to any felony, or to a misdemeanor which evidences bad moral character, dishonesty, a lack of integrity and financial responsibility, or an unfitness and inability to provide acceptable service to the consuming public;
 - (g) Admitting or being found to have committed any insurance unfair trade practice or fraud;
 - (h) Using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility, or being a source of injury and loss to the public or others, in the conduct of business in this state or elsewhere;
 - (i) Having an insurance license denied, suspended or revoked in any other state, province, district or territory;
 - (j) Forging another's name on an application for insurance or on any document related to an insurance transaction;
 - (k) Improperly using notes or any other reference material to complete an examination for an insurance license;
 - (l) Knowingly accepting insurance business from an individual who is not licensed;
 - (m) Failing to comply with an administrative or court order imposing a child support obligation, provided however, that nothing in this provision shall be deemed to abrogate or modify chapter 14, title 7, Idaho Code; or
 - (n) Failing to pay state income tax or to comply with any administrative or court order directing payment of state income tax.
- (2) The director shall, without hearing, suspend for not more than twelve (12) months, or shall revoke or refuse to continue any license issued under this chapter to a nonresident where:
- (a) The director has received a final order of suspension, revocation or refusal to continue from the insurance regulatory official or court of jurisdiction of the licensee's home state; or
 - (b) A nonresident no longer has a license in the licensee's home state because the home state license was:
 - (i) Voluntarily surrendered for any reason except relicensing as a resident in another state; or
 - (ii) Otherwise nonrenewed by the nonresident and remains nonrenewed for a period greater than ninety (90) days beyond its expiration date, and without notice to the director of relicensing as a resident in another state.
- If cause under this provision exists after the expiration of the twelve (12) months, successive suspensions may be imposed by the director without hearing.
- (3) The license of a business entity may be suspended, revoked or refused if the director finds that the violation of an individual licensee, who is registered to or acting on behalf of the business entity, was known or should have been known by one (1) or more of the owners, officers or managers acting on behalf of the business entity and that the violation was not reported to the director and no corrective action was taken.
- (4) In addition to or in lieu of any applicable denial, suspension or revocation of a license, a person may, after hearing, be subject to a civil

fine or administrative penalty pursuant to subsection (1) of this section or any other applicable section.

(5) The director shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by title 41, Idaho Code, against any person who is under investigation for or charged with a violation of title 41, Idaho Code, or department rule, even if the person's license or registration has been surrendered, or has lapsed by operation of law, or if the person has never been licensed.

SECTION 2. That Section 41-1026, Idaho Code, be, and the same is hereby amended to read as follows:

41-1026. PROCEDURE FOLLOWING SUSPENSION, REVOCATION, DENIAL -- REINSTATEMENT. (1) Upon suspension, revocation, or refusal to continue any license, the director shall notify the licensee as provided in section 41-212(3), Idaho Code, and, in the case of a producer who holds appointments from insurers, shall give like notice to the insurers represented.

(2) Suspension, revocation, or refusal of any one (1) license held by the licensee under title 41, Idaho Code, shall automatically suspend, revoke or refuse continuation of all other licenses held by the licensee under title 41, Idaho Code.

(3) The director shall not issue a license under title 41, Idaho Code, to or as to any person whose license has been revoked or continuance refused until after the expiration of not less than one (1) year, to a maximum of five (5) years, from the date of such revocation or refusal, which time period shall be set forth in the final order, or, if judicial review of such revocation or refusal is sought, within not less than one (1) year, to a maximum of five (5) years, from the date of a final court order or decree affirming the revocation or refusal. If no time period is specified in the final order or final court order or decree, the time period shall be one (1) year. In the event the former licensee again files an application for a license under title 41, Idaho Code, the director may require the applicant to show good cause why the prior revocation or refusal to continue his license shall not be deemed a bar to the issuance of a new license.

(4) The director shall not issue a license under title 41, Idaho Code, to any person whose application for a license was previously denied until after the expiration of one (1) year from the date of such license denial or, if judicial review of such license denial is sought, one (1) year from the date of a final court order or decree affirming the license denial.

SECTION 3. That Section 41-1108, Idaho Code, be, and the same is hereby amended to read as follows:

41-1108. OTHER PROVISIONS APPLICABLE. The following sections of chapter 10, title 41, Idaho Code, shall, to the extent so applicable, also apply as to adjuster licenses:

(1) 41-1007(1), Idaho Code (application for producer license).

(2) 41-1008, Idaho Code (producer license).

(3) 41-1011, Idaho Code (issuance, refusal of license).

(4) 41-1013, Idaho Code (continuation, expiration of license, continuing education statement).

(5) 41-1016, Idaho Code (administrative penalty -- suspension, revocation, refusal of license).

(6) 41-1026, Idaho Code (procedure following suspension, revocation, denial -- reinstatement).

(7) 41-1027, Idaho Code (return of license).

CHAPTER 51
(S.B. No. 1235)

AN ACT

RELATING TO JUVENILE CORRECTIONS; AMENDING SECTION 20-511, IDAHO CODE, TO REMOVE REFERENCE TO AN ADMISSION OR DENIAL HEARING, TO REMOVE REFERENCE TO AN APPLICATION BY A JUVENILE OFFENDER AND TO REVISE TERMINOLOGY.

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

SECTION 1. 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 ~~shall~~ 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 is 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 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.

Approved March 16, 2016

CHAPTER 52
(S.B. No. 1244)

AN ACT

RELATING TO UNDERGROUND STORAGE TANKS; AMENDING SECTION 39-8802, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE FUNDING OF THE STATE UNDERGROUND STORAGE TANK PROGRAM AND TO PROVIDE FOR REPORTING; AMENDING SECTION 39-8807, IDAHO CODE, TO REMOVE A PROVISION THAT CERTAIN TRAINING BY THE DEPARTMENT SHALL BE OFFERED AT NO COST; AND AMENDING SECTION 39-8808, IDAHO CODE, TO REVISE A PROVISION REGARDING FEES FOR DEPARTMENT INSPECTIONS.

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

SECTION 1. That Section 39-8802, Idaho Code, be, and the same is hereby amended to read as follows:

39-8802. LEGISLATIVE FINDINGS AND INTENT. (1) The legislature of the state of Idaho finds:

- (a) That the protection of the environment from leaking underground storage tanks is a matter of statewide concern;
- (b) That subchapter IX of the solid waste disposal act (42 U.S.C. 6991, et seq. (2000)), as amended by the underground storage tank compliance act, public law 109-58, title XV, August 8, 2005, and regulations adopted pursuant thereto, establish federal law regulating underground storage tanks; and
- (c) That 42 U.S.C. 6991c(a) and 40 CFR part 281 allow the administrator of the United States environmental protection agency to approve a state program.

(2) Therefore, it is the intent of the legislature:

- (a) To establish a state underground storage tank program to comply with the requirements of the underground storage tank compliance act, public law 109-58, title XV, August 8, 2005, and the regulations adopted pursuant thereto, and 40 CFR part 280, so that the Idaho department of environmental quality may promulgate rules, through negotiated rulemaking, to implement a state underground storage tank program as provided in section 39-8805, Idaho Code;
- (b) That such program not constitute a new corrective action program;
- (c) That such program qualify the state for federal funding from the federal leaking underground storage tank trust fund; and
- (d) That such program ~~not may be funded by user fees or other fees for service such as that provided in section 39-119, Idaho Code, not to exceed one hundred dollars (\$100) per tank per year. These funds shall only be used for the underground storage tank program;~~
- (e) A fee balance greater than thirty-five thousand dollars (\$35,000) as of December 31 of each year, excluding any early payments for the fees due January 2 of the following year, shall be used to reduce the following year's fee; and

(f) Prior to February 1 of each year, the director shall report to the governor and the legislature on the use of fees collected the previous year. At a minimum, the report shall include:

- (i) A list of all tanks subject to inspection;
- (ii) The type of inspection and regulatory authority or guidance used; and
- (iii) A detailed accounting of how fee funds were spent.

SECTION 2. That Section 39-8807, Idaho Code, be, and the same is hereby amended to read as follows:

39-8807. OPERATOR TRAINING. (1) The department shall adopt an operator training program to be conducted by either the department or a state of Idaho approved third party to help underground storage tank system owners and operators and their employees understand and comply with the requirements of this chapter and rules promulgated pursuant to this chapter. The training shall be consistent with 42 U.S.C. 6991i(a).

(2) Training conducted by the department shall be offered at ~~no cost,~~ on location, to owners, operators, and employees of underground storage tank systems regulated under this chapter. The training shall be specific to the equipment on location.

SECTION 3. That Section 39-8808, Idaho Code, be, and the same is hereby amended to read as follows:

39-8808. INSPECTIONS. (1) Underground storage tank systems regulated under this chapter which have not been inspected by the department or the United States environmental protection agency since December 22, 1998, shall be inspected by the department in compliance with this chapter.

(2) After completion of all inspections required under subsection (1) of this section, the department or a third party inspector certified by an approved state or national program, shall conduct on-site inspections of underground storage tank systems regulated under this chapter at least once every three (3) years to determine compliance with this chapter.

(3) If the department conducts the inspection, it shall not charge a an additional fee for the inspection.

Approved March 16, 2016

CHAPTER 53
(S.B. No. 1246)

AN ACT

RELATING TO THE IDAHO TRANSPORTATION DEPARTMENT; AMENDING SECTION 40-503, IDAHO CODE, TO DELETE PROVISIONS REGARDING BASES FOR THE REMOVAL OF THE DIRECTOR OF THE IDAHO TRANSPORTATION DEPARTMENT BY THE IDAHO TRANSPORTATION BOARD.

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

SECTION 1. That Section 40-503, Idaho Code, be, and the same is hereby amended to read as follows:

40-503. OFFICES -- APPOINTMENT -- QUALIFICATIONS -- COMPENSATION. (1) An office of the director of the Idaho transportation department is established, and the board shall appoint a director having knowledge and experience in transportation matters. The director shall serve at the pleasure of the board and ~~may be removed by the board for inefficiency, neglect of duty,~~

~~malfeasance or nonfeasance in office.~~ The director shall not hold any other public office, nor any office in any political committee or organization, and shall devote full time to the performance of his official duties. The director shall receive compensation as the board may determine and shall be reimbursed for all actual and necessary travel and expenses incurred by him in the discharge of his official duties, not to exceed a sum approved by the board. Subject to the approval of the board, the director shall appoint a chief engineer of the department who shall serve at the pleasure of the director and the board, and who shall be exempt from the provisions of chapter 53, title 67, Idaho Code.

(2) An office of the chief engineer of the department is established, and the chief engineer shall be a registered professional engineer, holding a current certificate of registration in accordance with the laws of this state, or who, having those qualifications shall within nine (9) months after his appointment, qualify as a registered professional engineer in accordance with the laws of Idaho. The chief engineer shall also have had five (5) years of actual experience in highway engineering, at least three (3) of which shall have been in an administrative capacity involving the direction of a substantial technical engineering staff. The chief engineer shall not hold any other public office, nor any office in any political committee or organization, and shall devote full time to the performance of his official duties under the control and direction of the director. The chief engineer shall receive compensation and reimbursement for travel and expenses as may be established by the director.

Approved March 16, 2016

CHAPTER 54
(S.B. No. 1248)

AN ACT

RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5206, IDAHO CODE, TO REVISE REQUIREMENTS REGARDING CERTAIN WRITTEN CONTRACTS.

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

SECTION 1. That Section 33-5206, Idaho Code, be, and the same is hereby amended to read as follows:

33-5206. REQUIREMENTS AND PROHIBITIONS UPON APPROVAL OF A PUBLIC CHARTER SCHOOL. (1) In addition to any other requirements imposed in this chapter, a public charter school shall be nonsectarian in its programs, affiliations, admission policies, employment practices, and all other operations, shall not charge tuition, levy taxes or issue bonds, and shall not discriminate against any student on any basis prohibited by the federal or state constitutions or any federal, state or local law. Admission to a public charter school shall not be determined according to the place of residence of the student, or of the student's parent or guardian within the district, except that a new or conversion public charter school established under the provisions of this chapter shall adopt and maintain a policy giving admission preference to students who reside within the primary attendance area of that public charter school.

(2) No board of trustees shall require any employee of the school district to be involuntarily assigned to work in a public charter school.

(3) Certified teachers in a public charter school shall be considered public school teachers. Educational experience shall accrue for service in a public charter school and such experience shall be counted by any school district for any teacher who has been employed in a public charter school.

(4) Employment of charter school teachers and administrators shall be on written contract ~~in form as approved by the state superintendent of public instruction,~~ conditioned upon a valid certificate being held by such professional personnel at the time of entering upon the duties thereunder.

(5) No board of trustees shall require any student enrolled in the school district to attend a public charter school.

(6) Authorized chartering entities may establish reasonable pre-opening requirements or conditions to monitor the start-up progress of newly approved public charter schools and ensure that they are prepared to open smoothly on the date agreed, and to ensure that each school meets all building, health, safety, insurance and other legal requirements for school opening.

(7) Each public charter school shall annually submit the audit of the fiscal operations as required in section 33-5205(3)(1), Idaho Code, and a copy of the public charter school's accreditation report to the authorized chartering entity that approved its charter.

(8) A public charter school or the authorized chartering entity may enter into negotiations to revise a charter or performance certificate at any time. If a public charter school petitions to revise its charter or performance certificate, the authorized chartering entity's review of the revised petition shall be limited in scope solely to the proposed revisions. Except for public charter schools authorized by a school district board of trustees, when a non-virtual public charter school submits a proposed charter revision to its authorized chartering entity and such revision includes a proposal to increase such public charter school's approved student enrollment cap by ten percent (10%) or more, the authorized chartering entity shall hold a public hearing on such petition. The authorized chartering entity shall provide the board of the local school district in which the public charter school is physically located notice in writing of such hearing no later than thirty (30) days prior to the hearing. The public hearing shall include any oral or written comments that an authorized representative of the school district in which the public charter school is physically located may provide regarding the impact of the proposed charter revision upon the school district. Such public hearing shall also include any oral or written comments that any petitioner may provide regarding the impact of the proposed charter revision upon such school district.

(9) When a charter is nonrenewed pursuant to the provisions of section 33-5209B, Idaho Code, revoked pursuant to section 33-5209C, Idaho Code, or the board of directors of the public charter school terminates the charter, the assets of the public charter school remaining after all debts of the public charter school have been satisfied must be returned to the authorized chartering entity for distribution in accordance with applicable law.

Approved March 16, 2016

CHAPTER 55
(S.B. No. 1250)

AN ACT

RELATING TO NURSES; AMENDING CHAPTER 14, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1419, IDAHO CODE, TO ENACT THE ADVANCED PRACTICE REGISTERED NURSE COMPACT.

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

SECTION 1. That Chapter 14, 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 54-1419, Idaho Code, and to read as follows:

54-1419. ADVANCED PRACTICE REGISTERED NURSE COMPACT. The terms and conditions of the advanced practice registered nurse compact are hereby enacted in substantially the following form:

ADVANCED PRACTICE REGISTERED NURSE COMPACT

ARTICLE I

FINDINGS AND DECLARATION OF PURPOSE

a. The party states find that:

1. The health and safety of the public are affected by the degree of compliance with advanced practice registered nurse (APRN) licensure requirements and the effectiveness of enforcement activities related to state APRN licensure laws;
2. Violations of APRN licensure and other laws regulating the practice of nursing may result in injury or harm to the public;
3. The expanded mobility of APRNs and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of APRN licensure and regulation;
4. New practice modalities and technology make compliance with individual state APRN licensure laws difficult and complex;
5. The current system of duplicative APRN licensure for APRNs practicing in multiple states is cumbersome and redundant for both APRNs and states; and
6. Uniformity of APRN licensure requirements throughout the states promotes public safety and public health benefits.

b. The general purposes of this compact are to:

1. Facilitate the states' responsibility to protect the public's health and safety;
2. Ensure and encourage the cooperation of party states in the areas of APRN licensure and regulation, including promotion of uniform licensure requirements;
3. Facilitate the exchange of information between party states in the areas of APRN regulation, investigation and adverse actions;
4. Promote compliance with the laws governing APRN practice in each jurisdiction;
5. Invest all party states with the authority to hold an APRN accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses;
6. Decrease redundancies in the consideration and issuance of APRN licenses; and
7. Provide opportunities for interstate practice by APRNs who meet uniform licensure requirements.

ARTICLE II
DEFINITIONS

As used in this compact:

a. "Advanced practice registered nurse" or "APRN" means a registered nurse who has gained additional specialized knowledge, skills and experience through a program of study recognized or defined by the interstate commission of APRN compact administrators ("commission") and who is licensed to perform advanced nursing practice. An advanced practice registered nurse is licensed in an APRN role that is congruent with an APRN educational program, certification and commission rules.

b. "Adverse action" means any administrative, civil, equitable or criminal action permitted by a state's laws that is imposed by a licensing board or other authority against an APRN, including actions against an individual's license or multistate licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice or any other encumbrance on licensure affecting an APRN's authorization to practice, including the issuance of a cease and desist action.

c. "Alternative program" means a nondisciplinary monitoring program approved by a licensing board.

d. "APRN licensure" means the regulatory mechanism used by a party state to grant legal authority to practice as an APRN.

e. "APRN uniform licensure requirements" means minimum uniform licensure, education and examination requirements as adopted by the commission.

f. "Coordinated licensure information system" means an integrated process for collecting, storing and sharing information on APRN licensure and enforcement activities related to APRN licensure laws that is administered by a nonprofit organization composed of and controlled by licensing boards.

g. "Current significant investigatory information" means:

1. Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the APRN to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

2. Investigative information that indicates that the APRN represents an immediate threat to public health and safety regardless of whether the APRN has been notified and had an opportunity to respond.

h. "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board.

i. "Home state" means the party state that is the APRN's primary state of residence.

j. "Licensing board" means a party state's regulatory body responsible for regulating the practice of advanced practice registered nursing.

k. "Multistate license" means an APRN license to practice as an APRN issued by a home state licensing board that authorizes the APRN to practice as an APRN in all party states under a multistate licensure privilege in the same role and population focus as the APRN is licensed in the home state.

l. "Multistate licensure privilege" means a legal authorization associated with an APRN multistate license that permits an APRN to practice as an APRN in a remote state in the same role and population focus as the APRN is licensed in the home state.

m. "Noncontrolled prescription drug" means a device or drug that is not a controlled substance and is prohibited under state or federal law from being dispensed without a prescription. The term includes a device or drug that bears or is required to bear the legend "caution: federal law prohibits dispensing without prescription" or "prescription only" or other legend that complies with federal law.

n. "Party state" means any state that has adopted this compact.

o. "Population focus" means a specific patient population that is congruent with the APRN educational program, certification and commission rules.

p. "Prescriptive authority" means the legal authority to prescribe medications and devices as defined by party state laws.

q. "Remote state" means a party state that is not the home state.

r. "Single-state license" means an APRN license issued by a party state that authorizes practice only within the issuing state and does not include a multistate licensure privilege to practice in any other party state.

s. "State" means a state, territory or possession of the United States and the District of Columbia.

t. "State practice laws" means a party state's laws, rules and regulations that govern APRN practice, define the scope of advanced nursing practice, including prescriptive authority, and create the methods and grounds for imposing discipline. State practice laws do not include the requirements necessary to obtain and retain an APRN license, except for qualifications or requirements of the home state.

ARTICLE III

GENERAL PROVISIONS AND JURISDICTION

a. A state must implement procedures for considering the criminal history records of applicants for initial APRN licensure or APRN licensure by endorsement. Such procedures shall include the submission of fingerprints or other biometric-based information by APRN applicants for the purpose of obtaining an applicant's criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records.

b. By rule, the commission shall adopt the APRN uniform licensure requirements ("ULRs"). The ULRs shall provide the minimum requirements for APRN multistate licensure in party states, provided that the commission may adopt rules whereby an APRN, with an unencumbered license on the effective date of this compact, may obtain, by endorsement or otherwise, and retain a multistate license in a party state.

c. In order to obtain or retain a multistate license, an APRN must meet, in addition to the ULRs, the home state's qualifications for licensure or renewal of licensure, as well as all other applicable home state laws.

d. By rule, the commission shall identify the approved APRN roles and population foci for licensure as an APRN. An APRN issued a multistate license shall be licensed in an approved APRN role and at least one (1) approved population focus.

e. An APRN multistate license issued by a home state to a resident in that state will be recognized by each party state as authorizing the APRN to practice as an APRN in each party state, under a multistate licensure privilege, in the same role and population focus as the APRN is licensed in the home state. If an applicant does not qualify for a multistate license, a single-state license may be issued by a home state.

f. Issuance of an APRN multistate license shall include prescriptive authority for noncontrolled prescription drugs unless the APRN was licensed by the home state prior to the home state's adoption of this compact and has not previously held prescriptive authority.

1. An APRN granted prescriptive authority for noncontrolled prescription drugs in the home state may exercise prescriptive authority for noncontrolled prescription drugs in any remote state while exercising a multistate licensure privilege under an APRN multistate license; the APRN shall not be required to meet any additional eligibility requirements imposed by the remote state in exercising prescriptive authority for noncontrolled prescription drugs.

2. Prescriptive authority in the home state for an APRN who was not granted prescriptive authority at the time of initial licensure by the home state, prior to the adoption of this compact, shall be determined under home state law.

3. Prescriptive authority eligibility for an APRN holding a single-state license shall be determined under the law of the licensing state.

g. For each state in which an APRN seeks authority to prescribe controlled substances, the APRN shall satisfy all requirements imposed by such state in granting and/or renewing such authority.

h. An APRN issued a multistate license is authorized to assume responsibility and accountability for patient care independent of a supervisory or collaborative relationship with a physician. This authority may be exercised in the home state and in any remote state in which the APRN exercises a multistate licensure privilege. For an APRN issued a single-state license in a party state, the requirement for a supervisory or collaborative relationship with a physician shall be determined under applicable party state law.

i. All party states shall be authorized, in accordance with state due process laws, to take adverse action against an APRN's multistate licensure privilege such as revocation, suspension, probation or any other action that affects an APRN's authorization to practice under a multistate licensure privilege, including cease and desist actions. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

j. An APRN practicing in a party state must comply with the state practice laws of the state in which the client is located at the time service is provided. APRN practice is not limited to patient care but shall include all advanced nursing practice as defined by the state practice laws of the party state in which the client is located. APRN practice in a party state under a multistate licensure privilege will subject the APRN to the jurisdiction of the licensing board, the courts, and the laws of the party state in which the client is located at the time service is provided.

k. This compact does not affect additional requirements imposed by states for advanced practice registered nursing. However, a multistate licensure privilege to practice registered nursing granted by a party state shall be recognized by other party states as satisfying any state law requirement for registered nurse licensure as a precondition for authorization to practice as an APRN in that state.

l. Individuals not residing in a party state shall continue to be able to apply for a party state's single-state APRN license as provided under the laws of each party state. However, the single-state license granted to these individuals will not be recognized as granting the privilege to practice as an APRN in any other party state.

ARTICLE IV

APPLICATIONS FOR APRN LICENSURE IN A PARTY STATE

a. Upon application for an APRN multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held or is the holder of a licensed practical/vocational nursing license, a registered nursing license or an advanced practice registered nurse license issued by any other state, whether there are any encumbrances on any license or multistate licensure privilege held by the applicant, whether any adverse action has been taken against any license or multistate licensure privilege held by the applicant and whether the applicant is currently participating in an alternative program.

b. An APRN may hold a multistate APRN license, issued by the home state, in only one (1) party state at a time.

c. If an APRN changes primary state of residence by moving between two (2) party states, the APRN must apply for APRN licensure in the new home

state, and the multistate license issued by the prior home state shall be deactivated in accordance with applicable commission rules.

1. The APRN may apply for licensure in advance of a change in primary state of residence.
2. A multistate APRN license shall not be issued by the new home state until the APRN provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a multistate APRN license from the new home state.
- d. If an APRN changes primary state of residence by moving from a party state to a nonparty state, the APRN multistate license issued by the prior home state will convert to a single-state license, valid only in the former home state.

ARTICLE V

ADDITIONAL AUTHORITIES INVESTED IN PARTY STATE LICENSING BOARDS

- a. In addition to the other powers conferred by state law, a licensing board shall have the authority to:
 1. Take adverse action against an APRN's multistate licensure privilege to practice within that party state.
 - i. Only the home state shall have power to take adverse action against an APRN's license issued by the home state.
 - ii. For purposes of taking adverse action, the home state licensing board shall give the same priority and effect to reported conduct that occurred outside of the home state as it would if such conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.
 2. Issue cease and desist orders or impose an encumbrance on an APRN's authority to practice within that party state.
 3. Complete any pending investigations of an APRN who changes primary state of residence during the course of such investigations. The licensing board shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.
 4. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, as well as the production of evidence. Subpoenas issued by a party state licensing board for the attendance and testimony of witnesses and/or the production of evidence from another party state shall be enforced in the latter state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing licensing board shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state in which the witnesses and/or evidence are located.
 5. Obtain and submit, for an APRN licensure applicant, fingerprints or other biometric-based information to the federal bureau of investigation for criminal background checks, receive the results of the federal bureau of investigation record search on criminal background checks and use the results in making licensure decisions.
 6. If otherwise permitted by state law, recover from the affected APRN the costs of investigations and disposition of cases resulting from any adverse action taken against that APRN.

7. Take adverse action based on the factual findings of another party state, provided that the licensing board follows its own procedures for taking such adverse action.

b. If adverse action is taken by a home state against an APRN's multi-state licensure, the privilege to practice in all other party states under a multistate licensure privilege shall be deactivated until all encumbrances have been removed from the APRN's multistate license. All home state disciplinary orders that impose adverse action against an APRN's multistate license shall include a statement that the APRN's multistate licensure privilege is deactivated in all party states during the pendency of the order.

c. Nothing in this compact shall override a party state's decision that participation in an alternative program may be used in lieu of adverse action. The home state licensing board shall deactivate the multistate licensure privilege under the multistate license of any APRN for the duration of the APRN's participation in an alternative program.

ARTICLE VI

COORDINATED LICENSURE INFORMATION SYSTEM AND EXCHANGE OF INFORMATION

a. All party states shall participate in a coordinated licensure information system of all APRNs, licensed registered nurses and licensed practical/vocational nurses. This system will include information on the licensure and disciplinary history of each APRN, as submitted by party states, to assist in the coordinated administration of APRN licensure and enforcement efforts.

b. The commission, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection and exchange of information under this compact.

c. All licensing boards shall promptly report to the coordinated licensure information system any adverse action, any current significant investigative information, denials of applications (with the reasons for such denials) and APRN participation in alternative programs known to the licensing board regardless of whether such participation is deemed nonpublic and/or confidential under state law.

d. Current significant investigative information and participation in nonpublic or confidential alternative programs shall be transmitted through the coordinated licensure information system only to party state licensing boards.

e. Notwithstanding any other provision of law, all party state licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state.

f. Any personally identifiable information obtained from the coordinated licensure information system by a party state licensing board shall not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

g. Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing the information shall be removed from the coordinated licensure information system.

h. The compact administrator of each party state shall furnish a uniform data set to the compact administrator of each other party state, which shall include, at a minimum:

1. Identifying information;
2. Licensure data;

3. Information related to alternative program participation information; and
4. Other information that may facilitate the administration of this compact, as determined by commission rules.
 - i. The compact administrator of a party state shall provide all investigative documents and information requested by another party state.

ARTICLE VII

ESTABLISHMENT OF THE INTERSTATE COMMISSION OF APRN COMPACT ADMINISTRATORS

- a. The party states hereby create and establish a joint public agency known as the interstate commission of APRN compact administrators.
 1. The commission is an instrumentality of the party states.
 2. Venue is proper, and judicial proceedings by or against the commission shall be brought solely and exclusively, in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.
 3. Nothing in this compact shall be construed to be a waiver of sovereign immunity.
- b. Membership, voting and meetings.
 1. Each party state shall have and be limited to one (1) administrator. The head of the state licensing board or designee shall be the administrator of this compact for each party state. Any administrator may be removed or suspended from office as provided by the law of the state from which the administrator is appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the party state in which the vacancy exists.
 2. Each administrator shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. An administrator shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone or other means of communication.
 3. The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws or rules of the commission.
 4. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in article VIII of this compact.
 5. The commission may convene in a closed, nonpublic meeting if the commission must discuss:
 - i. Noncompliance of a party state with its obligations under this compact;
 - ii. The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;
 - iii. Current, threatened or reasonably anticipated litigation;
 - iv. Negotiation of contracts for the purchase or sale of goods, services or real estate;
 - v. Accusing any person of a crime or formally censuring any person;
 - vi. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

- vii. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- viii. Disclosure of investigatory records compiled for law enforcement purposes;
- ix. Disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigation of compliance with this compact; or
- x. Matters specifically exempted from disclosure by federal or state statute.

6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

c. The commission shall, by a majority vote of the administrators, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of this compact including, but not limited to:

1. Establishing the fiscal year of the commission;
 2. Providing reasonable standards and procedures:
 - i. For the establishment and meetings of other committees; and
 - ii. Governing any general or specific delegation of any authority or function of the commission.
 3. Providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the administrators vote to close a meeting in whole or in part. As soon as practicable, the commission must make public a copy of the vote to close the meeting revealing the vote of each administrator, with no proxy votes allowed;
 4. Establishing the titles, duties and authority and reasonable procedures for the election of the officers of the commission;
 5. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any party state, the bylaws shall exclusively govern the personnel policies and programs of the commission;
 6. Providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of this compact after the payment and/or reserving of all of its debts and obligations;
- d. The commission shall publish its bylaws and rules, and any amendments thereto, in a convenient form on the website of the commission;
- e. The commission shall maintain its financial records in accordance with the bylaws; and
- f. The commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.
- g. The commission shall have the following powers:

1. To promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all party states;
 2. To bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any licensing board to sue or be sued under applicable law shall not be affected;
 3. To purchase and maintain insurance and bonds;
 4. To borrow, accept or contract for services of personnel including, but not limited to, employees of a party state or nonprofit organizations;
 5. To cooperate with other organizations that administer state compacts related to the regulation of nursing including, but not limited to, sharing administrative or staff expenses, office space or other resources;
 6. To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this compact, and to establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters;
 7. To accept any and all appropriate donations, grants and gifts of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the commission shall strive to avoid any appearance of impropriety and/or conflict of interest;
 8. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, whether real, personal or mixed; provided that at all times the commission shall strive to avoid any appearance of impropriety;
 9. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, whether real, personal or mixed;
 10. To establish a budget and make expenditures;
 11. To borrow money;
 12. To appoint committees, including advisory committees comprised of administrators, state nursing regulators, state legislators or their representatives, and consumer representatives, and other such interested persons;
 13. To provide and receive information from, and to cooperate with, law enforcement agencies;
 14. To adopt and use an official seal; and
 15. To perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of APRN licensure and practice.
- h. Financing of the commission.
1. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities.
 2. The commission may levy on and collect an annual assessment from each party state to cover the cost of the operations and activities of the interstate commission and its staff which must be in a total amount sufficient to cover its annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule that is binding upon all party states.
 3. The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the party states, except by, and with the authority of, such party state.
 4. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall

be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

i. Qualified immunity, defense and indemnification.

1. The administrators, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury or liability caused by the intentional, willful or wanton misconduct of that person.

2. The commission shall defend any administrator, officer, executive director, employee or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further that the actual or alleged act, error or omission did not result from that person's intentional, willful or wanton misconduct.

3. The commission shall indemnify and hold harmless any administrator, officer, executive director, employee or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional, willful or wanton misconduct of that person.

ARTICLE VIII

RULEMAKING

a. The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this article and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment and shall have the same force and effect as provisions of this compact.

b. Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

c. Prior to promulgation and adoption of a final rule or rules by the commission, and at least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

1. On the website of the commission; and

2. On the website of each licensing board or the publication in which each state would otherwise publish proposed rules.

d. The notice of proposed rulemaking shall include:

1. The proposed time, date and location of the meeting in which the rule will be considered and voted upon;
 2. The text of the proposed rule or amendment, and the reason for the proposed rule;
 3. A request for comments on the proposed rule from any interested person; and
 4. The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.
- e. Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.
- f. The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.
- g. The commission shall publish the place, time and date of the scheduled public hearing.
1. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. All hearings will be recorded, and a copy will be made available upon request.
 2. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.
- h. If no one appears at the public hearing, the commission may proceed with promulgation of the proposed rule.
- i. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.
- j. The commission shall, by majority vote of all administrators, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.
- k. Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in this compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:
1. Meet an imminent threat to public health, safety or welfare;
 2. Prevent a loss of commission or party state funds; or
 3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule.
1. The commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

ARTICLE IX

OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

a. Oversight.

1. Each party state shall enforce this compact and take all actions necessary and appropriate to effectuate this compact's purposes and intent.

2. The commission shall be entitled to receive service of process in any proceeding that may affect the powers, responsibilities or actions of the commission and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission shall render a judgment or order void as to the commission, this compact or promulgated rules.

b. Default, technical assistance and termination.

1. If the commission determines that a party state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

i. Provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the commission; and

ii. Provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to cure the default, the defaulting state's membership in this compact may be terminated upon an affirmative vote of a majority of the administrators, and all rights, privileges and benefits conferred by this compact may be terminated 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 default.

3. Termination of membership in this compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor of the defaulting state and to the executive officer of the defaulting state's licensing board, the defaulting state's licensing board, and each of the party states.

4. A state whose membership in this compact has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The commission shall not bear any costs related to a state that is found to be in default or whose membership in this compact has been terminated, unless agreed upon in writing between the commission and the defaulting state.

6. The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district in which the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

c. Dispute resolution.

1. Upon request by a party state, the commission shall attempt to resolve disputes related to the compact that arise among party states and between party and nonparty states.

2. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes, as appropriate.

3. In the event the commission cannot resolve disputes among party states arising under this compact:

i. The party states may submit the issues in dispute to an arbitration panel, which will be comprised of individuals appointed by the compact administrator in each of the affected party states and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute.

ii. The decision of a majority of the arbitrators shall be final and binding.

d. Enforcement.

1. The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. By majority vote, the commission may initiate legal action in the United States district court for the District of Columbia or the federal district in which the commission has its principal offices against a party state that is in default to enforce compliance with the provisions of this compact and its promulgated rules and bylaws. 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 attorneys' fees.

3. The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

ARTICLE X

EFFECTIVE DATE, WITHDRAWAL AND AMENDMENT

a. This compact shall come into limited effect at such time as this compact has been enacted into law in ten (10) party states for the sole purpose of establishing and convening the commission to adopt rules relating to its operation and the APRN ULRs.

b. On the date of the commission's adoption of the APRN ULRs, all remaining provisions of this compact and rules adopted by the commission shall come into full force and effect in all party states.

c. Any state that joins this compact subsequent to the commission's initial adoption of the APRN uniform licensure requirements shall be subject to all rules that have been previously adopted by the commission.

d. Any party state may withdraw from this compact by enacting a statute repealing the same. A party state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

e. A party state's withdrawal or termination shall not affect the continuing requirement of the withdrawing or terminated state's licensing board to report adverse actions and significant investigations occurring prior to the effective date of such withdrawal or termination.

f. Nothing contained in this compact shall be construed to invalidate or prevent any APRN licensure agreement or other cooperative arrangement between a party state and a nonparty state that does not conflict with the provisions of this compact.

g. This compact may be amended by the party states. No amendment to this compact shall become effective and binding upon any party state until it is enacted into the laws of all party states.

h. Representatives of nonparty states to this compact shall be invited to participate in the activities of the commission, on a nonvoting basis, prior to the adoption of this compact by all states.

ARTICLE XI

CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States, or if the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held to be contrary to the constitution of any party state, this compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

Approved March 16, 2016

CHAPTER 56
(S.B. No. 1251)

AN ACT

RELATING TO THE NURSE LICENSURE COMPACT; REPEALING SECTION 54-1418, IDAHO CODE, RELATING TO THE NURSE LICENSURE COMPACT; AMENDING CHAPTER 14, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1418, IDAHO CODE, TO ENACT THE NURSE LICENSURE COMPACT; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 54-1418, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 14, 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 54-1418, Idaho Code, and to read as follows:

54-1418. NURSE LICENSURE COMPACT. The terms and conditions of the nurse licensure compact are hereby enacted in substantially the following form:

NURSE LICENSURE COMPACT

ARTICLE I

FINDINGS AND DECLARATION OF PURPOSE

a. The party states find that:

1. The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;
2. Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;
3. The expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation;
4. New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex;

5. The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant for both nurses and states; and
 6. Uniformity of nurse licensure requirements throughout the states promotes public safety and public health benefits.
- b. The general purposes of this compact are to:
1. Facilitate the states' responsibility to protect the public's health and safety;
 2. Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;
 3. Facilitate the exchange of information between party states in the areas of nurse regulation, investigation and adverse actions;
 4. Promote compliance with the laws governing the practice of nursing in each jurisdiction;
 5. Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses;
 6. Decrease redundancies in the consideration and issuance of nurse licenses; and
 7. Provide opportunities for interstate practice by nurses who meet uniform licensure requirements.

ARTICLE II DEFINITIONS

As used in this compact:

- a. "Adverse action" means any administrative, civil, equitable or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against a nurse, including actions against an individual's license or multistate licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a nurse's authorization to practice, including issuance of a cease and desist action.
- b. "Alternative program" means a nondisciplinary monitoring program approved by a licensing board.
- c. "Coordinated licensure information system" means an integrated process for collecting, storing and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is administered by a nonprofit organization composed of and controlled by licensing boards.
- d. "Current significant investigative information" means:
 1. Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or
 2. Investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.
- e. "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board.
- f. "Home state" means the party state which is the nurse's primary state of residence.
- g. "Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.
- h. "Multistate license" means a license to practice as a registered or a licensed practical/vocational nurse (LPN/VN) issued by a home state licens-

ing board that authorizes the licensed nurse to practice in all party states under a multistate licensure privilege.

i. "Multistate licensure privilege" means a legal authorization associated with a multistate license permitting the practice of nursing as either a registered nurse (RN) or LPN/VN in a remote state.

j. "Nurse" means RN or LPN/VN, as those terms are defined by each party state's practice laws.

k. "Party state" means any state that has adopted this compact.

l. "Remote state" means a party state, other than the home state.

m. "Single-state license" means a nurse license issued by a party state that authorizes practice only within the issuing state and does not include a multistate licensure privilege to practice in any other party state.

n. "State" means a state, territory or possession of the United States and the District of Columbia.

o. "State practice laws" means a party state's laws, rules and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. "State practice laws" do not include requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

ARTICLE III

GENERAL PROVISIONS AND JURISDICTION

a. A multistate license to practice registered or licensed practical/vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a nurse to practice as a registered nurse (RN) or as a licensed practical/vocational nurse (LPN/VN), under a multistate licensure privilege, in each party state.

b. A state must implement procedures for considering the criminal history records of applicants for initial multistate license or licensure by endorsement. Such procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records.

c. Each party state shall require the following for an applicant to obtain or retain a multistate license in the home state:

1. Meets the home state's qualifications for licensure or renewal of licensure, as well as all other applicable state laws;

2. (i) Has graduated or is eligible to graduate from a licensing board-approved RN or LPN/VN prelicensure education program; or

(ii) Has graduated from a foreign RN or LPN/VN prelicensure education program that (a) has been approved by the authorized accrediting body in the applicable country and (b) has been verified by an independent credentials review agency to be comparable to a licensing board-approved prelicensure education program;

3. Has, if a graduate of a foreign prelicensure education program not taught in English or if English is not the individual's native language, successfully passed an English proficiency examination that includes the components of reading, speaking, writing and listening;

4. Has successfully passed an NCLEX-RN® or NCLEX-PN® examination or recognized predecessor, as applicable;

5. Is eligible for or holds an active, unencumbered license;

6. Has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records;

7. Has not been convicted or found guilty, or has entered into an agreed disposition, of a felony offense under applicable state or federal criminal law;

8. Has not been convicted or found guilty, or has entered into an agreed disposition, of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis;

9. Is not currently enrolled in an alternative program;

10. Is subject to self-disclosure requirements regarding current participation in an alternative program; and

11. Has a valid United States social security number.

d. All party states shall be authorized, in accordance with existing state due process law, to take adverse action against a nurse's multistate licensure privilege such as revocation, suspension, probation or any other action that affects a nurse's authorization to practice under a multistate licensure privilege, including cease and desist actions. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

e. A nurse practicing in a party state must comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of the party state in which the client is located. The practice of nursing in a party state under a multistate licensure privilege will subject a nurse to the jurisdiction of the licensing board, the courts and the laws of the party state in which the client is located at the time service is provided.

f. Individuals not residing in a party state shall continue to be able to apply for a party state's single-state license as provided under the laws of each party state. However, the single-state license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state. Nothing in this compact shall affect the requirements established by a party state for the issuance of a single-state license.

g. Any nurse holding a home state multistate license, on the effective date of this compact, may retain and renew the multistate license issued by the nurse's then-current home state, provided that:

1. A nurse, who changes primary state of residence after this compact's effective date, must meet all applicable article III.c. requirements to obtain a multistate license from a new home state.

2. A nurse who fails to satisfy the multistate licensure requirements in article III.c. due to a disqualifying event occurring after this compact's effective date shall be ineligible to retain or renew a multistate license, and the nurse's multistate license shall be revoked or deactivated in accordance with applicable rules adopted by the interstate commission of nurse licensure compact administrators ("commission").

ARTICLE IV

APPLICATIONS FOR LICENSURE IN A PARTY STATE

a. Upon application for a multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on any license or multistate licensure privilege held by the applicant, whether any adverse action has been taken against any license or multistate licensure privilege held by the applicant, and whether the applicant is currently participating in an alternative program.

b. A nurse may hold a multistate license, issued by the home state, in only one (1) party state at a time.

c. If a nurse changes primary state of residence by moving between two (2) party states, the nurse must apply for licensure in the new home state, and the multistate license issued by the prior home state will be deactivated in accordance with applicable rules adopted by the commission.

1. The nurse may apply for licensure in advance of a change in primary state of residence.

2. A multistate license shall not be issued by the new home state until the nurse provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a multistate license from the new home state.

d. If a nurse changes primary state of residence by moving from a party state to a nonparty state, the multistate license issued by the prior home state will convert to a single-state license, valid only in the former home state.

ARTICLE V

ADDITIONAL AUTHORITIES INVESTED IN PARTY STATE LICENSING BOARDS

a. In addition to the other powers conferred by state law, a licensing board shall have the authority to:

1. Take adverse action against a nurse's multistate licensure privilege to practice within that party state.

i. Only the home state shall have the power to take adverse action against a nurse's license issued by the home state.

ii. For purposes of taking adverse action, the home state licensing board shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

2. Issue cease and desist orders or impose an encumbrance on a nurse's authority to practice within that party state.

3. Complete any pending investigations of a nurse who changes primary state of residence during the course of such investigations. The licensing board shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.

4. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, as well as the production of evidence. Subpoenas issued by a licensing board in a party state for the attendance and testimony of witnesses or the production of evidence from another party state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and proce-

dures of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state in which the witnesses or evidence are located.

5. Obtain and submit, for each nurse licensure applicant, fingerprint or other biometric-based information to the federal bureau of investigation for criminal background checks, receive the results of the federal bureau of investigation record search on criminal background checks and use the results in making licensure decisions.

6. If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse.

7. Take adverse action based on the factual findings of the remote state, provided that the licensing board follows its own procedures for taking such adverse action.

b. If adverse action is taken by the home state against a nurse's multi-state license, the nurse's multistate licensure privilege to practice in all other party states shall be deactivated until all encumbrances have been removed from the multistate license. All home state disciplinary orders that impose adverse action against a nurse's multistate license shall include a statement that the nurse's multistate licensure privilege is deactivated in all party states during the pendency of the order.

c. Nothing in this compact shall override a party state's decision that participation in an alternative program may be used in lieu of adverse action. The home state licensing board shall deactivate the multistate licensure privilege under the multistate license of any nurse for the duration of the nurse's participation in an alternative program.

ARTICLE VI

COORDINATED LICENSURE INFORMATION SYSTEM AND EXCHANGE OF INFORMATION

a. All party states shall participate in a coordinated licensure information system of all licensed registered nurses (RNs) and licensed practical/vocational nurses (LPNs/VNs). This system will include information on the licensure and disciplinary history of each nurse, as submitted by party states, to assist in the coordination of nurse licensure and enforcement efforts.

b. The commission, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection and exchange of information under this compact.

c. All licensing boards shall promptly report to the coordinated licensure information system any adverse action, any current significant investigative information, denials of applications (with the reasons for such denials) and nurse participation in alternative programs known to the licensing board regardless of whether such participation is deemed nonpublic or confidential under state law.

d. Current significant investigative information and participation in nonpublic or confidential alternative programs shall be transmitted through the coordinated licensure information system only to party state licensing boards.

e. Notwithstanding any other provision of law, all party state licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state.

f. Any personally identifiable information obtained from the coordinated licensure information system by a party state licensing board shall

not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

g. Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

h. The compact administrator of each party state shall furnish a uniform data set to the compact administrator of each other party state, which shall include, at a minimum:

1. Identifying information;
2. Licensure data;
3. Information related to alternative program participation; and
4. Other information that may facilitate the administration of this compact, as determined by commission rules.

i. The compact administrator of a party state shall provide all investigative documents and information requested by another party state.

ARTICLE VII

ESTABLISHMENT OF THE INTERSTATE COMMISSION OF NURSE LICENSURE COMPACT ADMINISTRATORS

a. The party states hereby create and establish a joint public entity known as the interstate commission of nurse licensure compact administrators.

1. The commission is an instrumentality of the party states.
2. Venue is proper, and judicial proceedings by or against the commission shall be brought solely and exclusively, in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.
3. Nothing in this compact shall be construed to be a waiver of sovereign immunity.

b. Membership, voting and meetings.

1. Each party state shall have and be limited to one (1) administrator. The head of the state licensing board or designee shall be the administrator of this compact for each party state. Any administrator may be removed or suspended from office as provided by the law of the state from which the administrator is appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the party state in which the vacancy exists.
2. Each administrator shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. An administrator shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone or other means of communication.
3. The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws or rules of the commission.
4. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in article VIII of this compact.
5. The commission may convene in a closed, nonpublic meeting if the commission must discuss:

- i. Noncompliance of a party state with its obligations under this compact;
- ii. The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;
- iii. Current, threatened or reasonably anticipated litigation;
- iv. Negotiation of contracts for the purchase or sale of goods, services or real estate;
- v. Accusing any person of a crime or formally censuring any person;
- vi. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
- vii. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- viii. Disclosure of investigatory records compiled for law enforcement purposes;
- ix. Disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigation of compliance with this compact; or
- x. Matters specifically exempted from disclosure by federal or state statute.

6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

c. The commission shall, by a majority vote of the administrators, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of this compact including, but not limited to:

1. Establishing the fiscal year of the commission;
2. Providing reasonable standards and procedures:
 - i. For the establishment and meetings of other committees; and
 - ii. Governing any general or specific delegation of any authority or function of the commission;
3. Providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the administrators vote to close a meeting in whole or in part. As soon as practicable, the commission must make public a copy of the vote to close the meeting revealing the vote of each administrator, with no proxy votes allowed;
4. Establishing the titles, duties and authority and reasonable procedures for the election of the officers of the commission;
5. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any party state, the

bylaws shall exclusively govern the personnel policies and programs of the commission; and

6. Providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of this compact after the payment or reserving of all of its debts and obligations;

d. The commission shall publish its bylaws and rules, and any amendments thereto, in a convenient form on the website of the commission.

e. The commission shall maintain its financial records in accordance with the bylaws.

f. The commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.

g. The commission shall have the following powers:

1. To promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all party states;

2. To bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any licensing board to sue or be sued under applicable law shall not be affected;

3. To purchase and maintain insurance and bonds;

4. To borrow, accept or contract for services of personnel including, but not limited to, employees of a party state or nonprofit organizations;

5. To cooperate with other organizations that administer state compacts related to the regulation of nursing including, but not limited to, sharing administrative or staff expenses, office space or other resources;

6. To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this compact, and to establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters;

7. To accept any and all appropriate donations, grants and gifts of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the commission shall avoid any appearance of impropriety or conflict of interest;

8. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, whether real, personal or mixed; provided that at all times the commission shall avoid any appearance of impropriety;

9. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, whether real, personal or mixed;

10. To establish a budget and make expenditures;

11. To borrow money;

12. To appoint committees, including advisory committees comprised of administrators, state nursing regulators, state legislators or their representatives, and consumer representatives, and other such interested persons;

13. To provide and receive information from, and to cooperate with, law enforcement agencies;

14. To adopt and use an official seal; and

15. To perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of nurse licensure and practice.

h. Financing of the commission.

1. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities.

2. The commission may also levy on and collect an annual assessment from each party state to cover the cost of its operations, activities and staff in its annual budget as approved each year. The aggregate annual assessment amount, if any, shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule that is binding upon all party states.

3. The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the party states, except by, and with the authority of, such party state.

4. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

i. Qualified immunity, defense and indemnification.

1. The administrators, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional, willful or wanton misconduct of that person.

2. The commission shall defend any administrator, officer, executive director, employee or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further that the actual or alleged act, error or omission did not result from that person's intentional, willful or wanton misconduct.

3. The commission shall indemnify and hold harmless any administrator, officer, executive director, employee or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional, willful or wanton misconduct of that person.

ARTICLE VIII

RULEMAKING

a. The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this article and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or

amendment and shall have the same force and effect as provisions of this compact.

b. Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

c. Prior to promulgation and adoption of a final rule or rules by the commission, and at least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

1. On the website of the commission; and
2. On the website of each licensing board or the publication in which each state would otherwise publish proposed rules.

d. The notice of proposed rulemaking shall include:

1. The proposed time, date and location of the meeting in which the rule will be considered and voted upon;
2. The text of the proposed rule or amendment, and the reason for the proposed rule;
3. A request for comments on the proposed rule from any interested person; and
4. The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

e. Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.

f. The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.

g. The commission shall publish the place, time and date of the scheduled public hearing.

1. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. All hearings will be recorded, and a copy will be made available upon request.

2. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

h. If no one appears at the public hearing, the commission may proceed with promulgation of the proposed rule.

i. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

j. The commission shall, by majority vote of all administrators, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

k. Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment or hearing, provided that the usual rulemaking procedures provided in this compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety or welfare;
2. Prevent a loss of commission or party state funds; or
3. Meet a deadline for the promulgation of an administrative rule that is required by federal law or rule.

1. The commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall

be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the commission, prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

ARTICLE IX

OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

a. Oversight.

1. Each party state shall enforce this compact and take all actions necessary and appropriate to effectuate this compact's purposes and intent.

2. The commission shall be entitled to receive service of process in any proceeding that may affect the powers, responsibilities or actions of the commission and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process in such proceeding to the commission shall render a judgment or order void as to the commission, this compact or promulgated rules.

b. Default, technical assistance and termination.

1. If the commission determines that a party state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

i. Provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default or any other action to be taken by the commission; and

ii. Provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to cure the default, the defaulting state's membership in this compact may be terminated upon an affirmative vote of a majority of the administrators, and all rights, privileges and benefits conferred by this compact may be terminated 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 default.

3. Termination of membership in this compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor of the defaulting state and to the executive officer of the defaulting state's licensing board and each of the party states.

4. A state whose membership in this compact has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The commission shall not bear any costs related to a state that is found to be in default or whose membership in this compact has been terminated unless agreed upon in writing between the commission and the defaulting state.

6. The defaulting state may appeal the action of the commission by petitioning the U.S. district court for the District of Columbia or the federal district in which the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

c. Dispute resolution.

1. Upon request by a party state, the commission shall attempt to resolve disputes related to the compact that arise among party states and between party and nonparty states.
2. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes, as appropriate.
3. In the event the commission cannot resolve disputes among party states arising under this compact:
 - i. The party states may submit the issues in dispute to an arbitration panel, which will be comprised of individuals appointed by the compact administrator in each of the affected party states and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute.
 - ii. The decision of a majority of the arbitrators shall be final and binding.
- d. Enforcement.
 1. The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.
 2. By majority vote, the commission may initiate legal action in the U.S. district court for the District of Columbia or the federal district in which the commission has its principal offices against a party state that is in default to enforce compliance with the provisions of this compact and its promulgated rules and bylaws. 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 attorneys' fees.
 3. The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

ARTICLE X

EFFECTIVE DATE, WITHDRAWAL AND AMENDMENT

- a. This compact shall become effective and binding on the earlier of the date of legislative enactment of this compact into law by no less than twenty-six (26) states or December 31, 2018. All party states to this compact, that also were parties to the prior nurse licensure compact, superseded by this compact, ("prior compact"), shall be deemed to have withdrawn from said prior compact within six (6) months after the effective date of this compact.
- b. Each party state to this compact shall continue to recognize a nurse's multistate licensure privilege to practice in that party state issued under the prior compact until such party state has withdrawn from the prior compact.
- c. Any party state may withdraw from this compact by enacting a statute repealing the same. A party state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.
- d. A party state's withdrawal or termination shall not affect the continuing requirement of the withdrawing or terminated state's licensing board to report adverse actions and significant investigations occurring prior to the effective date of such withdrawal or termination.
- e. Nothing contained in this compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with the other provisions of this compact.
- f. This compact may be amended by the party states. No amendment to this compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

g. Representatives of nonparty states to this compact shall be invited to participate in the activities of the commission, on a nonvoting basis, prior to the adoption of this compact by all states.

ARTICLE XI

CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States, or if the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held to be contrary to the constitution of any party state, this compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

SECTION 3. This act shall be in full force and effect on and after the date on which the executive director of the State Board of Nursing certifies to the Secretary of State that twenty-five (25) other states have enacted the Nurse Licensure Compact.

Approved March 16, 2016

CHAPTER 57 (S.B. No. 1258)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-107, IDAHO CODE, TO REMOVE REFERENCE TO THE UNIVERSITY OF IDAHO CAINE VETERINARY TEACHING AND RESEARCH CENTER AND TO PROVIDE FOR THE ANNUAL TRANSFER OF CERTAIN MONEYS TO THE UNIVERSITY OF IDAHO COLLEGE OF AGRICULTURAL AND LIFE SCIENCES, DEPARTMENT OF ANIMAL AND VETERINARY SCIENCE.

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

SECTION 1. That Section 36-107, Idaho Code, be, and the same is hereby amended to read as follows:

36-107. FISH AND GAME ACCOUNT. (a) The director shall promptly transmit to the state treasurer all moneys received by him, from the sale of hunting, fishing and trapping licenses, tags and permits or from any other source connected with the administration of the provisions of the Idaho fish and game code or any law or regulation for the protection of wildlife, including moneys received from the sale of predatory animal furs taken under the provisions of this chapter, and the state treasurer shall deposit all such moneys in the fish and game account, which is hereby established, reserved, set aside, appropriated in the state treasury, and made available until expended as may be directed by the commission in carrying out the purposes of the Idaho fish and game code or any law or regulation promulgated for the protection of wildlife, and shall be used for no other purpose. Pending expenditure or use, surplus moneys in the fish and game account shall be invested by the state treasurer in the manner provided for idle state moneys in the state treasury by section 67-1210, Idaho Code. Interest received on all such

investments shall be paid into the account. The state controller shall annually, by August 1 of each year, transfer the sum of one hundred thousand dollars (\$100,000) from the fish and game account to the University of Idaho ~~Caine Veterinary Teaching and Research Center~~ College of Agricultural and Life Sciences, Department of Animal and Veterinary Science for disease research regarding the interaction of disease between wildlife and domestic livestock. Said moneys shall be expended on projects agreed upon by the University of Idaho ~~Caine Veterinary Teaching and Research Center~~ College of Agricultural and Life Sciences, Department of Animal and Veterinary Science and the director of the department of fish and game.

(b) The commission shall govern the financial policies of the department and shall, as provided by law, fix the budget for the operation and maintenance of its work for each fiscal year. Said budget shall not be exceeded by the director.

(c) The sum of two dollars (\$2.00) from each license authorized in sections 36-406(a) and 36-407(b), Idaho Code, which entitles a person to fish, shall be used for the construction, repair, or rehabilitation of state fish hatcheries, fishing lakes, or reservoirs.

(d) The department is authorized to expend up to one dollar and fifty cents (\$1.50) from each resident deer and elk tag sold and five dollars (\$5.00) from each nonresident deer and elk tag sold to fund the department's big game landowner-sportsman's relations program.

Approved March 16, 2016

CHAPTER 58
(S.B. No. 1261)

AN ACT

RELATING TO VEHICLES; AMENDING SECTION 49-1010, IDAHO CODE, TO REVISE PROVISIONS REGARDING ALLOWABLE LENGTHS OF CERTAIN VEHICLES AND TO REVISE PROVISIONS REGARDING OVERHANGS AND EXTENSIONS OF LOADS.

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

SECTION 1. That Section 49-1010, Idaho Code, be, and the same is hereby amended to read as follows:

49-1010. SIZE OF VEHICLES AND LOADS. No vehicle shall exceed the dimensions specified below, except that certain devices determined by the board as necessary for the safe and efficient operation of motor vehicles, including energy conservation devices, shall be excluded from the calculation of width or length.

(1) The width of a vehicle, including any load thereon, except as noted below, shall not exceed 8 1/2 feet.

(a) The limitations as to size of vehicles stated in this section shall not apply to farm tractors or to implements of husbandry, including any load thereon, or any trailer not wider than the implement of husbandry used in the transportation of implements of husbandry for agricultural operations, and including all equipment used in land leveling operations, when being incidentally operated upon the highway from one (1) farm operation to another during daylight hours.

(b) The limitations as to size of vehicles shall not apply to farmers or their designated agents, transporting implements of husbandry and equipment listed in paragraph (a) of this subsection for the purpose of:

(i) The repair or maintenance of such implements of husbandry and equipment when traveling to or from a farm to a repair or maintenance facility during daylight hours; or

(ii) The purchase or sale of such implements of husbandry and equipment when traveling to or from a farm to a dealership, auction house or other facility during daylight hours.

(c) Notwithstanding the exemption from width limitation for farm tractors included in paragraph (a) of this subsection, the total outside width of any farm tractor being transported on the interstate system in this state, except as permitted by section 49-1004, Idaho Code, shall not exceed 9 feet.

(d) A farm tractor or implement of husbandry, when being incidentally transported upon the highway with a width in excess of the limits of paragraphs (a) and (c) of this subsection, must display one (1) red or fluorescent orange flag a minimum of twelve (12) by twelve (12) inches on the outermost left projection of the tractor or implement being transported.

(2) The height of a vehicle, including the load thereon, shall not exceed 14 feet.

(3) The length of a vehicle, or vehicle combination, except as noted below shall not exceed:

(a) When a single motor vehicle 45 feet.

(b) When a trailer or semitrailer, except as noted below 48 feet.

1. Semitrailers operating on routes determined by the board to have severe curvature, deficient width and/or heavy traffic conditions shall be limited to an overall combination length not to exceed 65 feet.

2. The length of a trailer tongue, or the length of the tongue of a converter gear used to convert a semitrailer to a trailer, shall be excluded from the calculation of a trailer length.

3. Semitrailers operating on routes which are a part of the national network as set forth in 23 CFR 658, on routes providing access between the national network and terminals and facilities for food, fuel, repairs and rest which are located within one (1) road mile of the national network and state highways as set forth by policy and approved by the transportation board shall not exceed a length of 53 feet.

(c) When a motor vehicle and one (1) or more trailers, except as noted in subsection (3) (b), (3) (d) and (3) (e) of this section 75 feet.

(d) When a combination of semitrailer and trailer, or of two (2) semitrailers the length in such combination, including the connecting tongue and excluding the truck tractor except as noted below . . 61 feet.

When the combination of semitrailer and trailer or of two (2) semitrailers including the connecting tongues exceeds sixty-one (61) feet, the length of such combination including the truck tractor . . . 75 feet.

(e) When a combination of a semitrailer and trailer, or of two (2) semitrailers operating on routes on the national network as set forth in 23 CFR 658, and on routes providing access between the national network and terminals and facilities for food, fuel, repairs and rest which are located within one (1) road mile of the national network, the length, including the connecting tongue and excluding the truck tractor, shall not exceed 68 feet.

(f) When a dromedary tractor with semitrailer, stinger-steered by having the kingpin located five (5) feet to the rear of the centroid of the rear axle(s) 75 feet.

(g) When a dromedary combination transporting class 1 explosive materials and/or any munitions-related security material as specified by the U.S. department of defense in compliance with 49 CFR 177.835, not meeting the stinger-steer requirement as defined in subsection (3) (f) of this section, up to 75 feet.

- (h) When a dromedary tractor with semitrailer, not meeting the stinger-steer requirement as defined in subsection (3)(f) of this section 65 feet.
- (i) ~~When an auto transporter or a boat transporter, stinger-steered as defined in subsection (3)(f) of this section, excluding front and rear overhang of load 75 feet.~~
- (j) When an auto transporter, stinger-steered as defined in subsection (3)(f) of this section, excluding front and rear overhang of load 80 feet.
- (k) When an auto transporter or boat transporter, not meeting the stinger-steer requirement as defined in subsection (3)(f) of this section, excluding front and rear overhang of load 65 feet.
- (~~k~~l) When a truck tractor with stinger-steered pole trailer or log dolly, connected by a reach or pole, or a combination used for transporting long loads such as poles, pipes, logs or structural members generally capable of sustaining themselves as beams between supporting bunks or connections 75 feet.
- (4) The overhang or extension of a load shall not extend:
 - (a) Beyond the front of a vehicle, more than 4 feet.
 - (b) Beyond the end of a vehicle, more than 10 feet.
 - (c) Beyond the left fender of a passenger vehicle, more than ... 0 feet.
 - (d) Beyond the right fender of a passenger vehicle, more than 6 inches.
 - (e) ~~To the front and rear combined of an auto transporter or a boat transporter, more than 73 feet.~~
 - (f) To the rear of a boat transporter, more than 4 feet.
 - (g) To the front of an auto transporter, more than 4 feet.
 - (h) To the rear of an auto transporter, more than 6 feet.
- (5) Noncargo-carrying devices necessary for the safe and efficient operation of the vehicle, as determined by the board, shall not be included in measurement for length.
- (6) No combination shall include more than three (3) units except when a saddlemount combination and the overall length allowed is:
 - (a) On the national network 97 feet.
 - (b) Other than the national network 75 feet.
- (7) Vehicle combinations consisting of not more than four (4) vehicle units with an overall length in excess of the limits of subsection (3) of this section and with an overall combination length not to exceed one hundred fifteen (115) feet, may be operated by permit on routes designated for such operations by the public highway agency having jurisdiction over that highway system, subject to the following restrictions as to lengths of cargo-carrying units:
 - (a) Truck tractor and two (2) trailing units 95 feet.
 - (b) Truck tractor and three (3) trailing units 95 feet.
 - (c) Truck and two (2) trailing units 98 feet.

Approved March 16, 2016

CHAPTER 59
(S.B. No. 1262)

AN ACT

RELATING TO MOTOR VEHICLE SERVICE CONTRACTS; AMENDING SECTION 49-2802, IDAHO CODE, TO PROVIDE THAT CERTAIN AGREEMENTS SHALL NOT BE CONSIDERED MOTOR VEHICLE SERVICE CONTRACTS OR CONTRACTS OF INSURANCE.

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

SECTION 1. That Section 49-2802, Idaho Code, be, and the same is hereby amended to read as follows:

49-2802. DEFINITIONS. As used in this chapter:

(1) "Mechanical breakdown insurance" shall mean a policy, contract or agreement that undertakes to perform or provide repair or replacement service, or indemnification for such service, for the operational or structural failure of a motor vehicle due to defect in materials or workmanship or normal wear and tear and that is issued by an insurance company authorized to do business in this state.

(2) "Motor vehicle service contract" shall mean a contract or agreement given for consideration over and above the lease or purchase price of a motor vehicle that undertakes to perform or provide repair or replacement service, or indemnification for such service, for the operational or structural failure of a motor vehicle due to defect in materials or workmanship or normal wear and tear but shall not include mechanical breakdown insurance. A motor vehicle service contract may provide full or partial reimbursement for other expenses incurred by the motor vehicle service contract holder as a direct and proximate result of an operational or structure failure or reduced operating efficiency if included in the contract coverage, including but not limited to, towing, rental car, lodging, motor club, maintenance benefits, roadside assistance and meal expenses. An agreement whereby an employer, or a third party contracted by the employer, provides mileage reimbursement and incidental maintenance and repairs to its employees for personal vehicles used for business purposes shall not be considered a motor vehicle service contract or a contract of insurance.

(3) "Motor vehicle service contract holder" means a person who purchases a motor vehicle service contract, or a permitted transferee.

(4) "Motor vehicle service contract provider" shall mean a person or the assignee of such person who, as the manufacturer, distributor or seller of its product, or a person acting through or with the written consent of the manufacturer, distributor or seller of the product, offers to sell a motor vehicle service contract.

(5) "Liability insurance policy" shall mean a policy of insurance providing coverage for all contractual obligations incurred by a motor vehicle service contract provider under the terms of a motor vehicle service contract issued or sold by the motor vehicle service contract provider.

Approved March 16, 2016

CHAPTER 60
(S.B. No. 1281)

AN ACT

RELATING TO EMERGENCY MEDICAL SERVICES; AMENDING CHAPTER 10, TITLE 56, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 56-1013B THROUGH 56-1013Q, IDAHO CODE, TO ENACT THE EMS PERSONNEL LICENSURE INTERSTATE COMPACT, TO STATE THE PURPOSE OF THE COMPACT, TO DEFINE TERMS, TO ESTABLISH PROVISIONS REGARDING HOME STATE LICENSURE, TO ESTABLISH PRACTICE PRIVILEGES UNDER THE COMPACT, TO PROVIDE CONDITIONS FOR PRACTICE IN A REMOTE STATE, TO PROVIDE THAT THE EMERGENCY MANAGEMENT ASSISTANCE COMPACT SHALL TAKE PRECEDENCE OVER THIS COMPACT UNDER CERTAIN CIRCUMSTANCES, TO ESTABLISH LICENSURE PROVISIONS FOR VETERANS, SERVICE MEMBERS AND THEIR SPOUSES, TO ESTABLISH THAT ADVERSE ACTION MAY BE TAKEN AGAINST AN INDIVIDUAL'S LICENSE UNDER CERTAIN CIRCUMSTANCES AND TO ESTABLISH THE CONSEQUENCES OF ADVERSE ACTION, TO PROVIDE ADDITIONAL POWERS TO A MEMBER STATE'S EMS AUTHORITY UNDER THE COMPACT, TO ESTABLISH AN INTERSTATE COMMISSION, TO PROVIDE FOR A COORDINATED DATABASE, TO PROVIDE RULEMAKING AUTHORITY, TO PROVIDE FOR OVERSIGHT OF THE COMPACT AND TO ESTABLISH PROVISIONS REGARDING DEFAULT, DISPUTE RESOLUTION AND ENFORCEMENT OF THE COMPACT, TO PROVIDE FOR IMPLEMENTATION OF THE COMPACT, TO PROVIDE THAT THE COMPACT SHALL BE CONSTRUED LIBERALLY AND TO PROVIDE SEVERABILITY.

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

SECTION 1. That Chapter 10, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 56-1013B through 56-1013Q, Idaho Code, and to read as follows:

56-1013B. RECOGNITION OF EMS PERSONNEL LICENSURE INTERSTATE COMPACT (REPLICA). The recognition of EMS personnel licensure interstate compact (REPLICA) is hereby enacted into law and entered into with all other jurisdictions legally joining therein, in the form substantially as follows in sections 56-1013C through 56-1013Q, Idaho Code.

56-1013C. PURPOSE. In order to protect the public through verification of competency and ensure accountability for patient care related activities all states license emergency medical services (EMS) personnel, such as emergency medical technicians (EMTs), advanced EMTs and paramedics. This compact is intended to facilitate the day-to-day movement of EMS personnel across state boundaries in the performance of their EMS duties as assigned by an appropriate authority and authorize state EMS offices to afford immediate legal recognition to EMS personnel licensed in a member state. This compact recognizes that states have a vested interest in protecting the public's health and safety through their licensing and regulation of EMS personnel and that such state regulation shared among the member states will best protect public health and safety. This compact is designed to achieve the following purposes and objectives:

- (1) Increase public access to EMS personnel;
- (2) Enhance the states' ability to protect the public's health and safety, especially patient safety;
- (3) Encourage the cooperation of member states in the areas of EMS personnel licensure and regulation;
- (4) Support licensing of military members who are separating from an active duty tour and their spouses;

(5) Facilitate the exchange of information between member states regarding EMS personnel licensure, adverse action and significant investigatory information;

(6) Promote compliance with the laws governing EMS personnel practice in each member state; and

(7) Invest all member states with the authority to hold EMS personnel accountable through the mutual recognition of member state licenses.

56-1013D. DEFINITIONS. As used in this compact:

(1) "Advanced emergency medical technician" (AEMT) means an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the national EMS education standards and national EMS scope of practice model.

(2) "Adverse action" means any administrative, civil, equitable or criminal action permitted by a state's laws that may be imposed against licensed EMS personnel by a state EMS authority or state court including, but not limited to, actions against an individual's license such as revocation, suspension, probation, consent agreement, monitoring or other limitation or encumbrance on the individual's practice, letters of reprimand or admonition, fines, criminal convictions and state court judgments enforcing adverse actions by the state EMS authority.

(3) "Alternative program" means a voluntary, nondisciplinary substance abuse recovery program approved by a state EMS authority.

(4) "Certification" means the successful verification of entry-level cognitive and psychomotor competency using a reliable, validated and legally defensible examination.

(5) "Commission" means the national administrative body of which all states that have enacted the compact are members.

(6) "Emergency medical technician" (EMT) means an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the national EMS education standards and national EMS scope of practice model.

(7) "Home state" means a member state where an individual is licensed to practice emergency medical services.

(8) "License" means the authorization by a state for an individual to practice as an EMT, AEMT, paramedic or a level in between EMT and paramedic.

(9) "Medical director" means a physician licensed in a member state who is accountable for the care delivered by EMS personnel.

(10) "Member state" means a state that has enacted this compact.

(11) "Privilege to practice" means an individual's authority to deliver emergency medical services in remote states as authorized under this compact.

(12) "Paramedic" means an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the national EMS education standards and national EMS scope of practice model.

(13) "Remote state" means a member state in which an individual is not licensed.

(14) "Restricted" means the outcome of an adverse action that limits a license or the privilege to practice.

(15) "Rule" means a written statement by the commission promulgated pursuant to section 56-1013N, Idaho Code, of this compact that is of general applicability; implements, interprets or prescribes a policy or provision of the compact; or is an organizational, procedural or practice requirement of the 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.

(16) "Scope of practice" means defined parameters of various duties or services that may be provided by an individual with specific credentials. Whether regulated by rule, statute or court decision, it tends to represent the limits of services an individual may perform.

(17) "Significant investigatory information" means:

(a) Investigative information that a state EMS authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proved true, would result in the imposition of an adverse action on a license or privilege to practice; or

(b) Investigative information that indicates that the individual represents an immediate threat to public health and safety regardless of whether the individual has been notified and had an opportunity to respond.

(18) "State" means any state, commonwealth, district or territory of the United States.

(19) "State EMS authority" means the board, office or other agency with the legislative mandate to license EMS personnel.

56-1013E. HOME STATE LICENSURE. (1) Any member state in which an individual holds a current license shall be deemed a home state for purposes of this compact.

(2) Any member state may require an individual to obtain and retain a license to be authorized to practice in the member state under circumstances not authorized by the privilege to practice under the terms of this compact.

(3) A home state's license authorizes an individual to practice in a remote state under the privilege to practice only if the home state:

(a) Currently requires the use of the national registry of emergency medical technicians (NREMT) examination as a condition of issuing initial licenses at the EMT and paramedic levels;

(b) Has a mechanism in place for receiving and investigating complaints about individuals;

(c) Notifies the commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding an individual;

(d) No later than five (5) years after activation of the compact, requires a criminal background check of all applicants for initial licensure, 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 and submit documentation of such as promulgated in the rules of the commission; and

(e) Complies with the rules of the commission.

56-1013F. COMPACT PRIVILEGE TO PRACTICE. (1) Member states shall recognize the privilege to practice of an individual licensed in another member state that is in conformance with section 56-1013E, Idaho Code.

(2) To exercise the privilege to practice under the terms and provisions of this compact, an individual must:

(a) Be at least eighteen (18) years of age;

(b) Possess a current unrestricted license in a member state as an EMT, AEMT, paramedic or state recognized and licensed level with a scope of practice and authority between EMT and paramedic; and

(c) Practice under the supervision of a medical director.

(3) An individual providing patient care in a remote state under the privilege to practice shall function within the scope of practice authorized by the home state unless and until modified by an appropriate authority in the remote state as may be defined in the rules of the commission.

(4) Except as provided in this section, an individual practicing in a remote state will be subject to the remote state's authority and laws. A remote state may, in accordance with due process and that state's laws, restrict, suspend or revoke an individual's privilege to practice in the remote state and may take any other necessary actions to protect the health and

safety of its citizens. If a remote state takes action it shall promptly notify the home state and the commission.

(5) If an individual's license in any home state is restricted or suspended, the individual shall not be eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.

(6) If an individual's privilege to practice in any remote state is restricted, suspended or revoked, the individual shall not be eligible to practice in any remote state until the individual's privilege to practice is restored.

56-1013G. CONDITIONS OF PRACTICE IN A REMOTE STATE. An individual may practice in a remote state under a privilege to practice only in the performance of the individual's EMS duties as assigned by an appropriate authority, as defined in the rules of the commission, and under the following circumstances:

(1) The individual originates a patient transport in a home state and transports the patient to a remote state;

(2) The individual originates in the home state and enters a remote state to pick up a patient and provide care and transport of the patient to the home state;

(3) The individual enters a remote state to provide patient care and/or transport within that remote state;

(4) The individual enters a remote state to pick up a patient and provide care and transport to a third member state;

(5) Other conditions as determined by rules promulgated by the commission.

56-1013H. RELATIONSHIP TO EMERGENCY MANAGEMENT ASSISTANCE COMPACT. Upon a member state's governor's declaration of a state of emergency or disaster that activates the emergency management assistance compact (EMAC), all relevant terms and provisions of EMAC shall apply and to the extent any terms or provisions of this compact conflict with EMAC, the terms of EMAC shall prevail with respect to any individual practicing in the remote state in response to such declaration.

56-1013I. VETERANS, SERVICE MEMBERS SEPARATING FROM ACTIVE DUTY MILITARY AND THEIR SPOUSES. (1) Member states shall consider a veteran, active military service member, and member of the national guard and reserves separating from an active duty tour, and a spouse thereof, who holds a current valid and unrestricted NREMT certification at or above the level of the state license being sought as satisfying the minimum training and examination requirements for such licensure.

(2) Member states shall expedite the processing of licensure applications submitted by veterans, active military service members, and members of the national guard and reserves separating from an active duty tour, and their spouses.

(3) All individuals functioning with a privilege to practice under this section remain subject to the adverse actions provisions of section 56-1013J, Idaho Code.

56-1013J. ADVERSE ACTIONS. (1) A home state shall have exclusive power to impose adverse action against an individual's license issued by the home state.

(2) If an individual's license in any home state is restricted or suspended, the individual shall not be eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.

(a) All home state adverse action orders shall include a statement that the individual's compact privileges are inactive. The order may allow the individual to practice in remote states with prior written authorization from both the home state and remote state's EMS authority.

(b) An individual currently subject to adverse action in the home state shall not practice in any remote state without prior written authorization from both the home state and remote state's EMS authority.

(3) A member state shall report adverse actions and any occurrences that the individual's compact privileges are restricted, suspended or revoked to the commission in accordance with the rules of the commission.

(4) A remote state may take adverse action on an individual's privilege to practice within that state.

(5) Any member state may take adverse action against an individual's privilege to practice in that state based on the factual findings of another member state, so long as each state follows its own procedures for imposing such adverse action.

(6) A home state's EMS authority shall investigate and take appropriate action with respect to reported conduct in a remote state as it would if such conduct had occurred within the home state. In such cases, the home state's law shall control in determining the appropriate adverse action.

(7) Nothing in this compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain nonpublic if required by the member state's laws. Member states must require individuals who enter any alternative programs to agree not to practice in any other member state during the term of the alternative program without prior authorization from such other member state.

56-1013K. ADDITIONAL POWERS INVESTED IN A MEMBER STATE'S EMS AUTHORITY. A member state's EMS authority, in addition to any other powers granted under state law, is authorized under this compact to:

(1) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a member state's EMS authority for the attendance and testimony of witnesses, and/or the production of evidence from another member state, shall be enforced in the remote state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing state EMS authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state where the witnesses and/or evidence are located; and

(2) Issue cease and desist orders to restrict, suspend or revoke an individual's privilege to practice in the state.

56-1013L. ESTABLISHMENT OF THE INTERSTATE COMMISSION FOR EMS PERSONNEL PRACTICE. (1) The compact states hereby create and establish a joint public agency known as the interstate commission for EMS personnel practice.

(a) The commission is a body politic and an instrumentality of the compact states.

(b) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(c) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

(2) Membership, voting, and meetings.

(a) Each member state shall have and be limited to one (1) delegate. The responsible official of the state EMS authority or his designee shall be the delegate to this compact for each member state. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the member state in which the vacancy exists. In the event that more than one (1) board, office or other agency with the legislative mandate to license EMS personnel at and above the level of EMT exists, the governor of the state will determine which entity will be responsible for assigning the delegate.

(b) Each delegate shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

(c) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

(d) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in section 56-1013N, Idaho Code.

(e) The commission may convene in a closed, nonpublic meeting if the commission must discuss noncompliance of a member state with its obligations under the compact; the employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures; current, threatened or reasonably anticipated litigation; negotiation of contracts for the purchase or sale of goods, services or real estate; accusing any person of a crime or formally censuring any person; disclosure of trade secrets or commercial or financial information that is privileged or confidential; disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy; disclosure of investigatory records compiled for law enforcement purposes; disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact; or matters specifically exempted from disclosure by federal or member state statute.

(f) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(3) The commission shall, by a majority vote of the delegates, prescribe bylaws and/or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the compact including, but not limited to:

(a) Establishing the fiscal year of the commission;

(b) Providing reasonable standards and procedures for the establishment and meetings of other committees; and governing any general or specific delegation of any authority or function of the commission;

(c) Providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the membership votes to close a meeting in whole or in part. As soon as practicable, the commission must make public a copy of the vote to close the meeting revealing the vote of each member with no proxy votes allowed;

(d) Establishing the titles, duties and authority, and reasonable procedures for the election of the officers of the commission;

(e) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any member state, the bylaws shall exclusively govern the personnel policies and programs of the commission;

(f) Promulgating a code of ethics to address permissible and prohibited activities of commission members and employees;

(g) Providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of the compact after the payment and/or reserving of all of its debts and obligations;

(h) The commission shall publish its bylaws and file a copy thereof, and a copy of any amendment thereto, with the appropriate agency or officer in each of the member states, if any;

(i) The commission shall maintain its financial records in accordance with the bylaws; and

(j) The commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.

(4) The commission shall have the following powers:

(a) The authority to promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all member states;

(b) To bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state EMS authority or other regulatory body responsible for EMS personnel licensure to sue or be sued under applicable law shall not be affected;

(c) To purchase and maintain insurance and bonds;

(d) To borrow, accept or contract for services of personnel including, but not limited to, employees of a member state;

(e) To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and to establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(f) To accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the commission shall strive to avoid any appearance of impropriety and/or conflict of interest;

(g) To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the commission shall strive to avoid any appearance of impropriety;

(h) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed;

(i) To establish a budget and make expenditures;

- (j) To borrow money;
 - (k) To appoint committees, including advisory committees comprised of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;
 - (l) To provide and receive information from, and to cooperate with, law enforcement agencies;
 - (m) To adopt and use an official seal; and
 - (n) To perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of EMS personnel licensure and practice.
- (5) Financing of the commission.
- (a) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities.
 - (b) The commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials and services.
 - (c) The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule binding upon all member states.
 - (d) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.
 - (e) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.
- (6) Qualified immunity, defense, and indemnification.
- (a) The members, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury or liability caused by the intentional or willful or wanton misconduct of that person.
 - (b) The commission shall defend any member, officer, executive director, employee or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or

alleged act, error or omission did not result from that person's intentional or willful or wanton misconduct.

(c) The commission shall indemnify and hold harmless any member, officer, executive director, employee or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional or willful or wanton misconduct of that person.

56-1013M. COORDINATED DATABASE. (1) The commission shall provide for the development and maintenance of a coordinated database and reporting system containing licensure, adverse action and significant investigatory information on all licensed individuals in member states.

(2) Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the coordinated database on all individuals to whom this compact is applicable as required by the rules of the commission, including:

- (a) Identifying information;
- (b) Licensure data;
- (c) Significant investigatory information;
- (d) Adverse actions against an individual's license;
- (e) An indicator that an individual's privilege to practice is restricted, suspended or revoked;
- (f) Nonconfidential information related to alternative program participation;
- (g) Any denial of application for licensure, and the reason(s) for such denial; and
- (h) Other information that may facilitate the administration of this compact, as determined by the rules of the commission.

(3) The coordinated database administrator shall promptly notify all member states of any adverse action taken against, or significant investigatory information on, any individual in a member state.

(4) Member states contributing information to the coordinated database may designate information that may not be shared with the public without the express permission of the contributing state.

(5) Any information submitted to the coordinated database that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the coordinated database.

56-1013N. RULEMAKING. (1) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

(2) If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any member state.

(3) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

(4) Prior to promulgation and adoption of a final rule or rules by the commission, and at least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

- (a) On the website of the commission; and

(b) On the website of each member state EMS authority or the publication in which each state would otherwise publish proposed rules.

(5) The notice of proposed rulemaking shall include:

(a) The proposed time, date and location of the meeting in which the rule will be considered and voted upon;

(b) The text of the proposed rule or amendment and the reason for the proposed rule;

(c) A request for comments on the proposed rule from any interested person; and

(d) The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

(6) Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.

(7) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

(a) At least twenty-five (25) persons;

(b) A governmental subdivision or agency; or

(c) An association having at least twenty-five (25) members.

(8) If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time and date of the scheduled public hearing.

(a) All persons wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.

(b) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(c) No transcript of the hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection (8) (c) shall not preclude the commission from making a transcript or recording of the hearing if it so chooses.

(d) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(9) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

(10) The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(11) If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule without a public hearing.

(12) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(a) Meet an imminent threat to public health, safety or welfare;

(b) Prevent a loss of commission or member state funds;

(c) Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

(d) Protect public health and safety.

(13) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

56-10130. OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT. (1) Oversight.

(a) The executive, legislative and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

(b) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the commission.

(c) The commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the commission, this compact, or promulgated rules.

(2) Default, technical assistance, and termination.

(a) If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the commission; and provide remedial training and specific technical assistance regarding the default.

(b) If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by this compact may be terminated 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 default.

(c) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

(d) A state that has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(e) The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

(f) The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission has its principal offices.

The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

(3) Dispute Resolution.

(a) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and nonmember states.

(b) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(4) Enforcement.

(a) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(b) By majority vote, the commission may initiate legal action in the United States district court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

(c) The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

56-1013P. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR EMS PERSONNEL PRACTICE AND ASSOCIATED RULES, WITHDRAWAL AND AMENDMENT. (1) The compact shall come into effect on the date on which the compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

(2) Any state that joins the compact subsequent to the commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state.

(3) Any member state may withdraw from this compact by enacting a statute repealing the same.

(a) A member state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

(b) Withdrawal shall not affect the continuing requirement of the withdrawing state's EMS authority to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

(4) Nothing contained in this compact shall be construed to invalidate or prevent any EMS personnel licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this compact.

(5) This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

56-1013Q. CONSTRUCTION AND SEVERABILITY. This compact shall be liberally construed so as to effectuate the purposes thereof. If this compact shall be held contrary to the constitution of any state member thereto, the compact shall remain in full force and effect as to the remaining member states. Nothing in this compact supersedes state law or rules related to licensure of EMS agencies.

Approved March 16, 2016

CHAPTER 61
(S.B. No. 1286)

AN ACT

RELATING TO ENGINEERS AND SURVEYORS; AMENDING SECTION 54-1202, IDAHO CODE, TO DEFINE A TERM.

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.

(3) "Board" means the Idaho board of licensure of professional engineers and professional land surveyors, hereinafter provided by this chapter.

(4) "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.

(5) "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.

(6) "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.

(7) "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.

(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 consulta-

tion, 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 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) "Retired professional engineer" or "retired professional land surveyor" means a professional licensed under this chapter who chooses to place his license in retired status indicating he is no longer practicing or offering to practice professional engineering or professional land surveying.

(16) "Rules of professional responsibility" means those rules, if any, promulgated by the board, as authorized by the Idaho Code.

(167) "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.

(178) "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.

Approved March 16, 2016

CHAPTER 62
(S.B. No. 1294)

AN ACT

RELATING TO THE PRACTICE OF PHARMACY; AMENDING SECTION 54-1704, IDAHO CODE, TO PROVIDE THAT PHARMACISTS MAY PRESCRIBE IMMUNIZATIONS FOR PERSONS WHO ARE SIX YEARS OF AGE OR OLDER.

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;

(b) Agents for active immunization when prescribed for susceptible persons ~~twelve~~ six (~~126~~) years of age or older for the protection from communicable disease; and

(c) Opioid antagonists pursuant to section 54-1733B, Idaho Code.

Approved March 16, 2016

CHAPTER 63
(S.B. No. 1298)

AN ACT

RELATING TO THE RACING COMMISSION; AMENDING CHAPTER 25, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-2507A, IDAHO CODE, TO DIRECT THE COMMISSION TO MAKE CERTAIN PAYMENT TO THE IDAHO HORSE COUNCIL UNDER SPECIFIED CONDITIONS; DECLARING AN EMERGENCY; AND PROVIDING A SUNSET DATE.

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

SECTION 1. That Chapter 25, 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 54-2507A, Idaho Code, and to read as follows:

54-2507A. PAYMENT -- IDAHO HORSE COUNCIL. During fiscal year 2016, the commission shall make payment of unencumbered and unexpended moneys in the parimutuel distributions fund (0485-16), of one hundred forty-three thousand three hundred fourteen dollars (\$143,314), to the Idaho horse council, with all expenditures restricted to youth equine education and promotion of equine-related youth development programs. These funds shall be kept in a separate account held by the Idaho horse council and shall be subject to audit.

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

SECTION 3. The provisions of Section 1 of this act shall be null, void and of no force and effect on and after July 1, 2016.

Approved March 16, 2016

CHAPTER 64
(S.B. No. 1353)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 2016; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE MANAGEMENT SERVICES PROGRAM FOR FISCAL YEAR 2016 TO PROVIDE FOR ATTORNEY'S FEES; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE MANAGEMENT SERVICES PROGRAM FOR FISCAL YEAR 2016 TO PROVIDE FOR INFORMATION TECHNOLOGY COSTS; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE PRISONS ADMINISTRATION PROGRAM FOR FISCAL YEAR 2016 TO PROVIDE FOR TRAINING COSTS; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE PRISONS ADMINISTRATION PROGRAM FOR FISCAL YEAR 2016 TO PROVIDE FOR TRAINING COSTS; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE IDAHO STATE CORRECTIONAL CENTER FOR FISCAL YEAR 2016 TO PROVIDE FOR FOOD SERVICE DELIVERY; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE POCATELLO WOMEN'S CORRECTIONAL CENTER FOR FISCAL YEAR 2016 TO PROVIDE FOR RELIGIOUS ACTIVITIES CONTRACT COSTS; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE COMMUNITY SUPERVISION PROGRAM FOR FISCAL YEAR 2016 TO PROVIDE FOR ADDITIONAL PERSONNEL COSTS AND OPERATING EXPENDITURES; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE COMMUNITY SUPERVISION PROGRAM FOR FISCAL YEAR 2016 TO PROVIDE FOR PROBATION AND PAROLE OFFICERS; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE COMMUNITY WORK CENTERS PROGRAM FOR FISCAL YEAR 2016 TO PROVIDE FOR SEWER REPAIRS; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF CORRECTION FOR THE IDAHO STATE CORRECTIONAL INSTITUTION FOR FISCAL YEAR 2016 DUE TO CLOSURE OF A UNIT; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF CORRECTION FOR THE COUNTY AND OUT-OF-STATE PLACEMENT PROGRAM FOR FISCAL YEAR 2016 DUE TO CONTRACT SAVINGS; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF CORRECTION FOR THE CORRECTIONAL ALTERNATIVE PLACEMENT PROGRAM FOR FISCAL YEAR 2016 DUE TO CONTRACT SAVINGS; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF CORRECTION FOR THE COMMUNITY SUPERVISION PROGRAM FOR FISCAL YEAR 2016 DUE TO SAVINGS IN TRAINING COSTS; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF CORRECTION FOR THE MEDICAL SERVICES PROGRAM FOR FISCAL YEAR 2016 DUE TO CONTRACT SAVINGS; 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 236, Laws of 2015, and any other appropriation provided for by law, there is hereby appropriated to the Department of Correction for the Management Services Program \$250,000 from the General Fund to be expended for operating expenditures, for the period July 1, 2015, through June 30, 2016, for the purpose of paying attorney's fees.

SECTION 2. In addition to the appropriation made in Section 1, Chapter 236, Laws of 2015, and any other appropriation provided for by law, there is hereby appropriated to the Department of Correction for the Management Services Program \$23,700 from the General Fund to be expended for operating expenditures, for the period July 1, 2015, through June 30, 2016, for the purpose of paying information technology costs at the Idaho State Correctional Center.

SECTION 3. In addition to the appropriation made in Section 1, Chapter 236, Laws of 2015, and any other appropriation provided for by law, there is hereby appropriated to the Department of Correction for the Prisons Administration Program \$205,000 from the General Fund to be expended for operating expenditures, for the period July 1, 2015, through June 30, 2016, for the purpose of paying for offender intervention training.

SECTION 4. In addition to the appropriation made in Section 1, Chapter 236, Laws of 2015, and any other appropriation provided for by law, there is hereby appropriated to the Department of Correction for the Prisons Administration Program \$263,700 from the Federal Grant Fund to be expended for operating expenditures, for the period July 1, 2015, through June 30, 2016, for the purpose of paying for offender intervention training.

SECTION 5. In addition to the appropriation made in Section 1, Chapter 236, Laws of 2015, and any other appropriation provided for by law, there is hereby appropriated to the Department of Correction for the Idaho State Correctional Center \$419,400 from the General Fund to be expended for personnel costs, for the period July 1, 2015, through June 30, 2016, for the purpose of providing food service delivery.

SECTION 6. In addition to the appropriation made in Section 1, Chapter 236, Laws of 2015, and any other appropriation provided for by law, there is hereby appropriated to the Department of Correction for the Pocatello Women's Correctional Center \$63,900 from the Miscellaneous Revenue Fund to be expended for operating expenditures, for the period July 1, 2015, through June 30, 2016, for religious activities contract costs.

SECTION 7. In addition to the appropriation made in Section 1, Chapter 236, Laws of 2015, and any other appropriation provided for by law, there is hereby appropriated from the Parolee Supervision Fund to the Department of Correction for the Community Supervision Program, the following amounts to be expended for the designated expense classes, for the period July 1, 2015, through June 30, 2016:

FOR:

Personnel Costs	\$189,600
Operating Expenditures	<u>153,600</u>
TOTAL	\$343,200

SECTION 8. In addition to the appropriation made in Section 1, Chapter 236, Laws of 2015, and any other appropriation provided for by law, there is hereby appropriated to the Department of Correction for the Community Supervision Program \$248,400 from the General Fund to be expended for personnel costs, for the period July 1, 2015, through June 30, 2016, for probation and parole officers.

SECTION 9. In addition to the appropriation made in Section 1, Chapter 236, Laws of 2015, and any other appropriation provided for by law, there is hereby appropriated to the Department of Correction for the Community Work Centers Program \$34,000 from the Miscellaneous Revenue Fund to be expended for operating expenditures, for the period July 1, 2015, through June 30, 2016, for the purpose of making emergency sewer repairs.

SECTION 10. Notwithstanding any other provision of law to the contrary, the appropriation made to the Department of Correction for the Idaho State Correctional Institution in Section 1, Chapter 236, Laws of 2015, from the General Fund, is hereby reduced by \$667,800 for personnel costs, for the period July 1, 2015, through June 30, 2016, due to closure of Unit 24.

SECTION 11. Notwithstanding any other provision of law to the contrary, the appropriation made to the Department of Correction for the County and Out-of-State Placement Program in Section 1, Chapter 236, Laws of 2015, from the General Fund, is hereby reduced by \$860,800 for operating expenditures, for the period July 1, 2015, through June 30, 2016, due to contract savings.

SECTION 12. 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 236, Laws of 2015, from the General Fund, is hereby reduced by \$408,000 for operating expenditures, for the period July 1, 2015, through June 30, 2016, due to contract savings.

SECTION 13. 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 236, Laws of 2015, from the General Fund, is hereby reduced by \$205,000 for operating expenditures, for the period July 1, 2015, through June 30, 2016, due to savings from training costs.

SECTION 14. 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 236, Laws of 2015, from the General Fund, is hereby reduced by \$888,300 for operating expenditures, for the period July 1, 2015, through June 30, 2016, due to contract savings.

SECTION 15. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 16, 2016

CHAPTER 65
(S.B. No. 1363)

AN ACT

APPROPRIATING MONEYS TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO FOR FISCAL YEAR 2017; 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, 2016, through June 30, 2017:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. RETIREMENT ADMINISTRATION:				
FROM:				
PERSI Administrative				
Fund	\$4,069,200	\$2,521,800	\$204,900	\$6,795,900
Judges' Retirement				
Fund	59,800	1,000	0	60,800
TOTAL	\$4,129,000	\$2,522,800	\$204,900	\$6,856,700
II. PORTFOLIO INVESTMENT:				
FROM:				
PERSI Special				
Fund	\$750,300	\$200,800	\$18,000	\$969,100
GRAND TOTAL	\$4,879,300	\$2,723,600	\$222,900	\$7,825,800

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-six (66) full-time equivalent positions at any point during the period July 1, 2016, through June 30, 2017, 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 16, 2016

CHAPTER 66
(S.B. No. 1364)

AN ACT

APPROPRIATING MONEYS TO THE STATE INDEPENDENT LIVING COUNCIL FOR FISCAL YEAR 2017; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND APPROPRIATING AND TRANSFERRING MONEYS TO THE STATE INDEPENDENT LIVING COUNCIL (DED) FUND WITHIN THE STATE INDEPENDENT LIVING COUNCIL ON JULY 1, 2016, OR AS SOON THEREAFTER AS IS PRACTICABLE.

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, 2016, through June 30, 2017:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$44,500	\$79,600		\$124,100
State Independent Living Council (Ded)				
Fund	260,400	91,300		351,700
Federal Grant				
Fund	<u>48,900</u>	<u>23,900</u>	<u>\$100,600</u>	<u>173,400</u>
TOTAL	\$353,800	\$194,800	\$100,600	\$649,200

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, 2016, through June 30, 2017, 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 and the State Controller shall transfer up to \$89,900 from the Federal Grant Fund to the State Independent Living Council (Ded) Fund within the State Independent Living Council on July 1, 2016, or as soon thereafter as is practicable. The purpose of this transfer is to resolve an outstanding accounting issue surrounding federal reimbursements that were received and erroneously deposited into the Federal Grant Fund.

Approved March 16, 2016

CHAPTER 67
(H.B. No. 385)

AN ACT

RELATING TO VETERANS PLATES; AMENDING SECTION 49-418, IDAHO CODE, TO PROVIDE CONDITIONS WHEN THE SURVIVING SPOUSE OF A QUALIFIED VETERAN MAY OBTAIN VETERANS PLATES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 49-418, Idaho Code, be, and the same is hereby amended to read as follows:

49-418. VETERANS PLATES. (1) Any person who is the owner of a vehicle registered under the provisions of section 49-402 or 49-434(1), Idaho Code, may apply for and upon department approval receive special veterans 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 veterans plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) Proof of being a current or former member of the United States armed forces must be furnished to the department before special veterans plates will be issued. Acceptable proof shall be a copy of form DD214 or an equivalent document or statement from the department of veterans affairs.

(3) In addition to the regular registration fees required in section 49-402(1) or 49-434(1), Idaho Code, the applicant shall pay the initial program fee of twenty-five dollars (\$25.00) and the annual program fee of fifteen dollars (\$15.00) as specified in section 49-402, Idaho Code, and the plate fee specified in section 49-450, Idaho Code. Ten dollars (\$10.00) of the initial program fee and ten dollars (\$10.00) of the annual program 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. Fifteen dollars (\$15.00) of the initial program fee and five dollars (\$5.00) of the annual program fee shall be deposited to the veterans cemetery maintenance fund created in section 65-107, Idaho Code, and shall be used to operate and maintain a state veterans cemetery.

(4) 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.

(5) The veterans license plate design shall include the colors red, white and blue, shall designate one (1) of the five (5) branches of military service, and display either:

(a) The word "VETERAN";

(b) The name of a conflict or war period recognized by the United States department of veterans affairs for the purpose of awarding federal veterans benefits as defined in 38 U.S.C. 101(11); or

(c) For a current or former member of the United States armed forces who has served in Afghanistan or Iraq during the post 9/11 global operations period, as defined in 38 U.S.C. section 4110A(c), the name of the post 9/11 global operations theater.

The license plate design shall comply with all applicable rules of the department, and shall include a separate and distinct numbering system. The design, color, and numbering system shall be subject to approval of the department.

(6) Veterans license plates may be retained and displayed on vehicles owned by the surviving spouse of a qualified veteran. In addition, provided that the deceased veteran met the criteria set forth above in this section, the surviving spouses of a deceased qualified veteran is eligible to reapply for and shall be issued veterans license plates if the deceased qualified veteran died on or after January 1 of the five (5) years preceding the date of reapplication for the plates qualified veterans shall be authorized to apply for and receive veterans plates and may retain, renew and display veterans plates for so long as the surviving spouse is within the definition set forth in 38 U.S.C. 101(3). There shall be no requirement that the veteran, while living, resided in Idaho or had applied for or received veterans plates. Such plates shall be used on a vehicle owned by the surviving spouse.

Approved March 16, 2016

CHAPTER 68
(H.B. No. 432)

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-612, IDAHO CODE, TO DEFINE TERMS AND TO REVISE THE PROCEDURE FOR HOW INSURANCE POLICIES ARE VALUED AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-1927, IDAHO CODE, TO DEFINE A TERM AND TO PROVIDE NONFORFEITURE STANDARDS; AND AMENDING SECTION 74-107, IDAHO CODE, TO PROVIDE THAT CERTAIN INFORMATION SUBMITTED TO INSURANCE COMPANIES SHALL BE EXEMPT FROM DISCLOSURE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 41-612, Idaho Code, be, and the same is hereby amended to read as follows:

41-612. STANDARD VALUATION LAW -- LIFE INSURANCE.

(1) (a) This section shall be known as the standard valuation law.

(b) For the purposes of this section the following definitions shall apply on or after the operative date of the valuation manual:

(i) "Accident and health insurance" means contracts that incorporate morbidity risk and provide protection against economic loss resulting from accident, sickness or medical conditions and as may be specified in the valuation manual. As used in this section and in the valuation manual, this term is synonymous with disability insurance as defined in section 41-503, Idaho Code.

(ii) "Appointed actuary" means a qualified actuary who is appointed in accordance with the valuation manual to prepare the actuarial opinion required in subsection (12) (b) of this section.

(iii) "Company" means an entity, which (a) has written, issued or reinsured life insurance contracts, accident and health insurance contracts or deposit-type contracts in this state and has at least one (1) such policy in force or on claim or (b) has written, issued or reinsured life insurance contracts, accident and health insurance contracts or deposit-type contracts in any state and is required to hold a certificate of authority to write life insurance, accident and health insurance or deposit-type contracts in this state.

(iv) "Deposit-type contract" means contracts that do not incorporate mortality or morbidity risks, and as may be specified in the valuation manual.

(v) "Life insurance" means contracts that incorporate mortality risk, including annuity and pure endowment contracts, and as may be specified in the valuation manual.

(vi) "NAIC" means the national association of insurance commissioners.

(vii) "Policyholder behavior" means any action a policyholder, contract holder or any other person with the right to elect options, such as a certificate holder, may take under a policy or contract subject to this section including, but not limited to, lapse, withdrawal, transfer, deposit, premium payment, loan, annuitization, or benefit elections prescribed by the policy or contract, but excluding events of mortality or morbidity that result in benefits prescribed in their essential aspects by the terms of the policy or contract.

(viii) "Principle-based valuation" means a reserve valuation that uses one (1) or more methods or one (1) or more assumptions determined by the insurer and is required to comply with subsection (15) of this section as specified in the valuation manual.

(ix) "Qualified actuary" means an individual who is qualified to sign the applicable statement of actuarial opinion in accordance with the American academy of actuaries qualification standards for actuaries signing such statements and who meets the requirements specified in the valuation manual.

(x) "Tail risk" means a risk that occurs either where the frequency of low probability events is higher than expected under a normal probability distribution or where there are observed events of very significant size or magnitude.

(xi) "Valuation manual" means the manual of valuation instructions adopted by the NAIC as specified in this section or as subsequently amended.

(2) Annual valuation.

(a) Policies and contracts issued prior to the operative date of the valuation manual.

(i) The director shall annually value, or cause to be valued, the reserve liabilities (hereinafter called "reserves") for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurer doing business in this state, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or others) used in the calculation of such reserves issued on or after the operative date specified in section 41-1927, Idaho Code, and prior to the operative date of the valuation manual. In the case of an alien insurer, such valuation shall be limited to its insurance transactions in the United States. In calculating such reserves, the director may use group methods and approximate averages for fractions of a year or otherwise. He may accept in his discretion the insurer's calculation of such reserves. In lieu of the valuation of the reserves herein required of any foreign or alien insurer, he may accept any valuation made or caused to be made by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard herein provided, and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the director when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction in this section. Where any such valuation is made by the director, he may use the ac-

tuary of the department or employ an actuary for the purpose, and the reasonable compensation and expenses of the actuary, at a rate approved by the director, upon demand by the director supported by an itemized statement of such compensation and expenses, shall be paid by the insurer. When a domestic insurer furnishes the director with a valuation of its outstanding policies as computed by its own actuary or by an actuary deemed satisfactory for the purpose by the director, the valuation shall be verified by the actuary of the department without costs to the insurer.

(ii) The provisions set forth in subsections (4), (4a), (4b), (5), (6), (7), (8), (9), (10), (11) and (13) of this section shall apply to all policies and contracts, as appropriate, subject to this section, issued on or after the operative date specified in section 41-1927, Idaho Code, and prior to the operative date of the valuation manual, and the provisions set forth in subsections (14) and (15) of this section shall not apply to any such policies and contracts.

(iii) The minimum standard for the valuation of policies and contracts issued prior to January 1, 1914, shall be that provided by the laws in effect immediately prior to that date.

(b) Policies and contracts issued on or after the operative date of the valuation manual.

(i) The director shall annually value, or cause to be valued, the reserve liabilities (hereinafter "reserves") for all outstanding life insurance contracts, annuity and pure endowment contracts, accident and health contracts, and deposit-type contracts of every company issued on or after the operative date of the valuation manual. In lieu of the valuation of the reserves required of a foreign or alien company, the director may accept a valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when the valuation complies with the minimum standard provided in this section.

(ii) The provisions set forth in subsections (14) and (15) of this section shall apply to all policies and contracts issued on or after the operative date of the valuation manual.

(3) Except as otherwise provided in subsections (4) and (4a) of this section, the minimum standard for the valuation of all such policies and contracts issued on and after January 1, 1914, and prior to the operative date of section 41-1927, Idaho Code, (standard nonforfeiture law) shall be the American experience table of mortality and interest at three and one-half percent ($3\frac{1}{2}\%$) per annum. Not more than one (1) year shall be used as a preliminary term. Extra charges may be made in particular cases of invalid lives and other extra hazards, policies may be valued in groups, and approximate averages may be used for fractions of a year. Policies other than ordinary and twenty (20) payment life may be valued according to the modified preliminary term, with twenty (20) payment life policies as a basis for such valuation. This subsection applies only as to policies and contracts issued prior to the operative date of section 41-1927, Idaho Code.

(4) Except as otherwise provided in subsections (4a) and (4b) of this section, the minimum standard for the valuation of all such policies and contracts issued on or after the operative date of section 41-1927, Idaho Code, (standard nonforfeiture law) shall be the commissioners reserve valuation methods defined in subsections (5), (6) and (10) of this section, three and one-half percent ($3\frac{1}{2}\%$) interest for all other such policies and contracts, except that the rate shall be four and one-half percent ($4\frac{1}{2}\%$) for individual annuity contracts, or in the case of policies and contracts, other than annuity and pure endowment contracts, issued on or after July 1, 1973, four percent (4%) interest for such policies issued prior to July 1, 1977, five and one-half percent ($5\frac{1}{2}\%$) interest for single premium life in-

insurance policies and four and one-half percent ($4\frac{1}{2}\%$) interest for all other such policies issued on or after July 1, 1977, but prior to the operative date of subsection (9) (d) of the standard nonforfeiture law for life insurance as amended, seven percent (7%) interest for such policies issued on and after the operative date of subsection (9) (d) of the standard nonforfeiture law for life insurance as amended, and the following tables:

(a) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies, the commissioners 1941 standard ordinary mortality table for such policies issued prior to the operative date of subsection (9) (b) of section 41-1927, Idaho Code; the commissioners 1958 standard ordinary mortality table for such policies issued on or after the operative date of subsection (9) (b) of the standard nonforfeiture law for life insurance as amended and prior to the operative date of subsection (9) (d) of the standard nonforfeiture law for life insurance as amended; except, that for any category of such policies issued on female risks, all modified net premiums and present values, referred to in subsections (5) and (10) of this section, may be calculated according to an age not more than six (6) years younger than the actual age of the insured; and for such policies issued on or after the operative date of subsection (9) (d) of the standard nonforfeiture law for life insurance as amended:

- (i) The commissioners 1980 standard ordinary mortality table, or
- (ii) At the election of the company for any one (1) or more specified plans of life insurance, the commissioners 1980 standard ordinary mortality table with ten-year select mortality factors, or
- (iii) Any ordinary mortality table, adopted after 1980 by the ~~national association of insurance commissioners~~ NAIC, that which is approved by regulation rule promulgated by the director for use in determining the minimum standard of valuation for such policies.

(b) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies, the 1941 standard industrial mortality table for such policies issued prior to the operative date of subsection (9) (c) of section 41-1927, Idaho Code, and for such policies issued on or after such operative date the commissioners 1961 standard industrial mortality table or any industrial mortality table, adopted after 1980 by the ~~national association of insurance commissioners~~ NAIC, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for such policies.

(c) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the 1937 standard annuity mortality table or, at the insurer's option, the annuity mortality table for 1949, ultimate, or any modification of either of these tables approved by the director.

(d) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the group annuity mortality table for 1951, any modification of such table approved by the director, or, at the insurer's option, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

(e) For total and permanent disability benefits in or supplementary to ordinary policies or contracts, for policies or contracts issued on or after January 1, 1966, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the Society of Actuaries, with due regard to the type of benefit, or any tables of disablement rates and termination rates, adopted after 1980 by the ~~national association of insurance commissioners~~ NAIC, that are approved by regulation promulgated by the director for use in determin-

ing the minimum standard of valuation for such policies; for policies or contracts issued on or after the operative date of section 41-1927, Idaho Code, (standard nonforfeiture law) and prior to January 1, 1966, either such tables or, at the insurer's option, the class (3) disability table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(f) For accidental death benefits in or supplementary to policies, for policies issued on or after January 1, 1966, the 1959 accidental death benefits table or any accidental death benefits table, adopted after 1980 by the ~~national association of insurance commissioners~~ NAIC, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for such policies; for policies issued on or after the operative date of section 41-1927, Idaho Code, (standard nonforfeiture law) and prior to January 1, 1966, either such table or, at the insurer's option, the intercompany double indemnity mortality table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(g) For group life insurance, life insurance issued on the substandard basis and other special benefits, such tables as may be approved by the director as being sufficient with relation to the benefits provided by such policies.

(4a) Except as provided in subsection (4b) of this section, the minimum standard ~~for the~~ of valuation ~~of~~ for all individual annuity and pure endowment contracts issued on or after the operative date of this subsection ~~(4a)~~, as defined herein, and for all annuities and pure endowments purchased on or after such operative date under group annuity and pure endowment contracts, shall be the commissioners reserve valuation methods defined in subsections (5) and (6) of this section and the following tables and interest rates:

(a) For individual annuity and pure endowment contracts issued prior to July 1, 1977, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table, or any modification of this table approved by the director, and six percent (6%) interest for single premium immediate annuity contracts, and four and one-half percent ($4\frac{1}{2}\%$) interest for all other individual annuity and pure endowment contracts.

(b) For individual single premium immediate annuity contracts issued on or after July 1, 1977, but prior to January 1, 1982, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table, or any modification of this table approved by the director, and seven and one-half percent ($7\frac{1}{2}\%$) interest.

(c) For individual single premium immediate annuity contracts issued on or after January 1, 1982, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table or any individual annuity mortality table, adopted after 1980 by the ~~national association of insurance commissioners~~ NAIC, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the director, and eleven percent (11%) interest.

(d) For individual annuity and pure endowment contracts issued on or after July 1, 1977, but prior to January 1, 1982, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table, or any modification of this table approved by the director, and five and one-half percent ($5\frac{1}{2}\%$) interest for single premium deferred annuity and pure endowment contracts and four and

one-half percent ($4\frac{1}{2}\%$) interest for all other such individual annuity and pure endowment contracts.

(e) For individual annuity and pure endowment contracts issued on or after January 1, 1982, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table or any individual annuity mortality table, adopted after 1980 by the ~~national association of insurance commissioners~~ NAIC, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the director, and eight percent (8%) interest.

(f) For all annuities and pure endowments purchased prior to July 1, 1977, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 group annuity mortality table, or any modification of this table approved by the director, and six percent (6%) interest.

(g) For all annuities and pure endowments purchased on or after July 1, 1977, but prior to January 1, 1982, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 group annuity mortality table, or any modification of this table approved by the director, and seven and one-half percent ($7\frac{1}{2}\%$) interest.

(h) For all annuities and pure endowments purchased on or after January 1, 1982, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 group annuity mortality table or any group annuity mortality table, adopted after 1980 by the ~~national association of insurance commissioners~~ NAIC, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for such annuities and pure endowments, or any modification of these tables approved by the director, and eleven percent (11%) interest.

After July 1, 1973, any insurer may file with the director a written notice of its election to comply with the provisions of this subsection after a specified date before January 1, 1979, which shall be the operative date of this subsection for such insurer, provided that an insurer may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If an insurer makes no such election, the operative date of this subsection for such insurer shall be January 1, 1979.

(4b) For any calendar year on or after the effective date of subsection (9) (d) of the standard nonforfeiture law for life insurance in the case of life insurance policies issued on or after such effective date, and for any calendar year on or after January 1, 1982, in the case of:

(a) Individual annuity and pure endowment contracts issued on or after January 1, 1982;

(b) Annuities and pure endowments purchased on or after January 1, 1982, under group annuity and pure endowment contracts; and

(c) The net increase, if any, in any particular calendar year after January 1, 1982, in amounts held under guaranteed interest contracts, the company may elect, for the purpose of determining the minimum standard for valuation, for any category of policy or contract, the calendar year statutory valuation interest rate as defined in this subsection in lieu of the interest rate specified in subsection (4) or (4a) of this section.

The provisions of this subsection shall be applicable to:

A. The interest rates used in determining the minimum standard for the valuation of:

- a. All ~~l~~Life insurance policies issued in a particular calendar year, on or after the operative date of subsection (9) (d) of the standard nonforfeiture law for life insurance;
- b. All ~~i~~Individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1982;
- c. All ~~a~~Annuities and pure endowments purchased in a particular calendar year on or after January 1, 1982, under group annuity and pure endowment contracts; and
- d. The net increase, if any, in a particular calendar year after January 1, 1982, in amounts held under guaranteed interest contracts

shall be the calendar year statutory valuation interest rates as defined in this subsection.

B. Calendar year statutory valuation interest rates:

- a. The calendar year statutory valuation interest rates, I, shall be determined as follows and the results rounded to the nearer one-quarter of one percent ($\frac{1}{4}$ of 1%).

- 1. For life insurance,

$$I = .03 + W(R_1 - .03) + \frac{W}{2}(R_2 - .09);$$

- 2. For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options,

$$I = .03 + W(R - .03)$$

where R_1 is the lesser of R and .09;

R_2 is the greater of R and .09;

R is the reference interest rate defined in this subsection and W is the weighting factor defined in this subsection,

- 3. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in 2. above, the formula for life insurance stated in 1. above shall apply to annuities and guaranteed interest contracts with guarantee durations in excess of ten (10) years and the formula for single premium immediate annuities stated in 2. above shall apply to annuities and guaranteed interest contracts with guarantee duration of ten (10) years or less,

- 4. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in 2. above shall apply,

- 5. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities stated in 2. above shall apply.

- b. However, if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of one percent ($\frac{1}{2}$ of 1%), the calendar year statutory valuation interest rate for such life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980 (using the reference interest rate defined for 1979) and shall be determined for each subsequent calendar year

regardless of when subsection (9) (d) of the standard nonforfeiture law for life insurance becomes operative.

C. Weighting factors

a. The weighting factors referred to in the formulas stated above are given in the following tables:

1. Weighting factors for life insurance:

Guarantee Duration (Years)	Weighting Factors
10 or less	.50
More than 10, but not more than 20	.45
More than 20	.35

For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values, or both, which are guaranteed in the original policy;

2. Weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options:

.80

3. Weighting factors for other annuities and for guaranteed interest contracts, except as stated in 2. above, shall be as specified in tables (i), (ii) and (iii) below, according to the rules and definitions in (iv), (v) and (vi) below:

(i) For annuities and guaranteed interest contracts valued on an issue year basis:

Guarantee Duration (Years)	Weighting Factor for Plan Type		
	A	B	C
5 or less	.80	.60	.50
More than 5, but not more than 10	.75	.60	.50
More than 10, but not more than 20	.65	.50	.45
More than 20	.45	.35	.35

Plan Type

(ii)	A	B	C
For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in (i) above increased by:	.15	.25	.05

(iii)
For annuities and guaranteed interest contracts valued on an issue year basis (other than those with no cash

settlement options) which do not guarantee interest on considerations received more than one (1) year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than twelve (12) months beyond the valuation date, the factors shown in (i) or derived in (ii) increased by: .05 .05 .05

(iv) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of twenty (20) years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

(v) Plan type as used in the above tables is defined as follows:

Plan Type A: At any time policyholder may withdraw funds only:

- (1) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer; or
- (2) without such adjustment but in installments over five (5) years or more; or
- (3) as an immediate life annuity; or
- (4) no withdrawal permitted.

Plan Type B: Before expiration of the interest rate guarantee, policyholder may withdraw funds only:

- (1) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer; or
- (2) without such adjustment but in installments over five (5) years or more; or
- (3) no withdrawal permitted.

At the end of interest rate guarantee, funds may be withdrawn without such adjustment in a single sum or installments over less than five (5) years.

Plan Type C: Policyholder may withdraw funds before expiration of interest rate guarantee in a single sum or installments over less than five (5) years, either:

- (1) without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer; or

(2) subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

(vi) An insurer may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue year basis or on a change in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue year basis. As used in this subsection, an issue year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract, and the change in fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

D. Reference interest rate

a. The reference interest rate referred to in paragraph B. of this subsection shall be defined as follows:

1. For all life insurance, the lesser of the average over a period of thirty-six (36) months and the average over a period of twelve (12) months, ending on June 30 of the calendar year next preceding the year of issue, of Moody's corporate bond yield average -- monthly average corporates, as published by Moody's Investors Service, Inc.

b. For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of twelve (12) months, ending on June 30 of the calendar year of issue or year of purchase, of Moody's corporate bond yield average -- monthly average corporates, as published by Moody's Investors Service, Inc.

c. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options valued on a year of issue basis, except as stated in b. above, with guarantee duration in excess of ten (10) years, the lesser of the average over a period of thirty-six (36) months and the average over a period of twelve (12) months, ending on June 30 of the calendar year of issue or purchase, of Moody's corporate bond yield average -- monthly average corporates, as published by Moody's Investors Service, Inc.

d. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in b. above, with guarantee duration of ten (10) years or less, the average over a period of twelve (12) months, ending June 30 of the calendar year of issue or purchase, of Moody's corporate bond yield average -- monthly average corporates, as published by Moody's Investors Service, Inc.

e. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of twelve (12) months, ending on June 30

of the calendar year of issue or purchase, of Moody's corporate bond yield average -- monthly average corporates, as published by Moody's Investors Service, Inc.

f. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as stated in b. above, the average over a period of twelve (12) months, ending on June 30 of the calendar year of the change in the fund, of Moody's corporate bond yield average -- monthly average corporates, as published by Moody's Investors Service, Inc.

E. Alternative method for determining reference interest rates

a. In the event that Moody's corporate bond yield average -- monthly average corporates is no longer published by Moody's Investors Service, Inc., or in the event that the ~~national association of insurance commissioners~~ NAIC determines that Moody's corporate bond yield average -- monthly average corporates, as published by Moody's Investors Service, Inc., is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, which is adopted by the ~~national association of insurance commissioners~~ NAIC and approved by regulation promulgated by the director, may be substituted.

(5) Commissioners reserve valuation method.

(a) Except as otherwise provided in subsections (6) and (10) of this section reserves according to the commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums, shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (i) over (ii) as follows:

(i) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one (1) per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; provided, however, that such net level annual premium shall not exceed the net level annual premium on the nineteen (19) year premium whole life plan for insurance of the same amount at an age one (1) year higher than the age at issue of such policy.

(ii) A net one (1) year term premium for such benefits provided for in the first policy year.

Provided that for any life insurance policy issued on or after January 1, 1986, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the reserve according to the commissioners reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium shall, except as otherwise provided in subsection (10) of this section, be the greater of the reserve as of such policy anniversary

calculated as described in the preceding paragraph and the reserve as of such policy anniversary calculated as described in that paragraph, but with (a) the value defined in subparagraph (i) of that paragraph being reduced by fifteen percent (15%) of the amount of such excess first year premium, (b) all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date, (c) the policy being assumed to mature on such date as an endowment, and (d) the cash surrender value provided on such date being considered as an endowment benefit. In making the above comparison the mortality and interest basis stated in subsections (4) and (4b) of this section shall be used.

(b) Reserves according to the commissioners reserve valuation method for:

- (i) Life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums,
- (ii) Group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended,
- (iii) Disability and accidental death benefits in all policies and contracts, and
- (iv) All other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts,

shall be calculated by a method consistent with the principles of subsection (5) (a) of this section, except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.

(6) Individual annuity and pure endowment reserves.

(a) This subsection ~~(6)~~ shall apply to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended.

(b) Reserves according to the commissioners annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of such contract, that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values.

(7) Minimum aggregate reserves. In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after the operative date of section

41-1927, Idaho Code, be less than the aggregate reserves calculated in accordance with the methods set forth in subsections (5), (6), (10) and (11) of this section and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

(8) Optional reserve basis.

(a) Reserves for all policies and contracts issued prior to the operative date of section 41-1927, Idaho Code, may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to such date.

(b) For any category of policies, contracts or benefits specified in subsections (4), (4a) and (4b) of this section, issued on or after the operative date of section 41-1927, Idaho Code, (the standard nonforfeiture law), reserves may be calculated, at the option of the insurer, according to any standard or standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be ~~higher~~ greater than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein in the policies or contracts.

(9) Lower valuations. An insurer which at any time had adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided under this section may, with the approval of the director, adopt any lower standard of valuation, but not lower than the minimum herein provided under this section.

(10) Minimum reserve. If in any contract year the gross premium charged by any life insurer on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon, but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this subsection are those standards stated in subsections (4) and (4b) of this section.

Provided that for any life insurance policy issued on or after January 1, 1986, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the foregoing provisions of this subsection ~~(10)~~ shall be applied as if the method actually used in calculating the reserve for such policy were the method described in subsection (5) of this section, ignoring the second paragraph of subsection (5) of this section. The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated in accordance with subsection (5) of this section, including the second paragraph of that subsection, and the minimum reserve calculated in accordance with this subsection ~~(10)~~.

(11) In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurer based on the then estimates of future experience, or in the case of any plan of life insurance or annuity which is of such a nature that the minimum reserves cannot be determined by the methods described in subsections (5),

(6) and (10) of this section, the reserves which are held under any such plan must:

(a) Be appropriate in relation to the benefits and the pattern of premiums for that plan, and

(b) Be computed by a method which is consistent with the principles of this standard valuation law, as determined by rules promulgated by the director.

(12) Actuarial opinion of reserves.

(a) Actuarial opinion prior to the operative date of the valuation manual.

(~~ai~~) Every life insurance company doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the director by rule are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts and comply with applicable laws of this state. The director by rule shall define the specifics of this opinion and add any other items deemed to be necessary to its scope.

(~~bii~~) Actuarial analysis of reserves and assets supporting such reserves.

~~(i)1.~~ Every life insurance company, except as exempted by or pursuant to rule, shall also annually include in the opinion required by subparagraph (ai) of this ~~subsection~~ paragraph, an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the director by rule, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts including, but not limited to, the benefits under and expenses associated with the policies and contracts.

~~(ii)2.~~ The director may provide by rule for a transition period for establishing any higher reserves which the qualified actuary may deem necessary in order to render the opinion required in this subsection.

(~~eiii~~) Requirements for opinion in subparagraph (bii) of this ~~subsection~~ paragraph. Each opinion required in subparagraph (bii) of this ~~subsection~~ paragraph shall be governed by the following provisions:

~~(i)1.~~ A memorandum, in form and substance acceptable to the director as specified by rule, shall be prepared to support each actuarial opinion.

~~(ii)2.~~ If the insurance company fails to provide a supporting memorandum at the request of the director within a period specified by rule or the director determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the rules or otherwise unacceptable to the director, the director may engage a qualified actuary at the expense of the company to review the opinion and prepare such supporting memorandum as is required by the director.

(~~div~~) Requirements for all opinions subject to paragraph (a) of this subsection. Every opinion subject to paragraph (a) of this subsection shall be governed by the following provisions:

~~(i)~~1. The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after December 31, 1995.

~~(ii)~~2. The opinion shall apply to all business in force including individual and group health insurance plans, in form and substance acceptable to the director as specified by rule.

~~(iii)~~3. The opinion shall be based on standards adopted from time to time by the actuarial standards board and on such additional standards as the director may by rule prescribe.

~~(iv)~~4. In the case of an opinion required to be submitted by a foreign or alien company, the director may accept the opinion filed by that company with the insurance supervisory official of another state if the director determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

~~(v)~~5. For the purposes of this subsection, "qualified actuary" means a member in good standing of the American academy of actuaries who meets the requirements set forth in such regulations.

~~(vi)~~6. Except in cases of fraud or willful misconduct, the qualified actuary shall not be liable for damages to any person (other than the insurance company and the director) for any act, error, omission, decision or conduct with respect to the actuary's opinion.

~~(vii)~~7. Disciplinary action by the director against the company or the qualified actuary shall be defined by rule by the director.

~~(viii)~~8. Any memorandum in support of the opinion, and any other material provided by the company to the director in connection therewith, shall be kept confidential by the director and shall not be made public and shall not be subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required in this subsection or by rule promulgated hereunder; provided however, that the memorandum or other material may otherwise be released by the director (A) with the written consent of the company or (B) to the American academy of actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the director for preserving the confidentiality of the memorandum or other material. Once any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department or is released by the company to the news media, all portions of the confidential memorandum shall no longer be confidential.

(b) Actuarial opinion of reserves after the operative date of the valuation manual.

(i) Every company with outstanding life insurance contracts, accident and health insurance contracts or deposit-type contracts in this state and subject to regulation by the director shall annually submit the opinion of the appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts and comply with applicable laws of this state. The valuation manual will prescribe the specifics of

this opinion, including any items deemed to be necessary to its scope.

(ii) Actuarial analysis of reserves and assets supporting reserves. Every company with outstanding life insurance contracts, accident and health insurance contracts or deposit-type contracts in this state and subject to regulation by the director, except as exempted in the valuation manual, shall also annually include in the opinion required by subparagraph (i) of this paragraph, an opinion of the same appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual, when considered in light of the assets held by the company with respect to the reserves and related actuarial items including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts including, but not limited to, the benefits under and expenses associated with the policies and contracts.

(iii) Requirements for opinions subject to paragraph (b) (ii) of this subsection. Each opinion required by paragraph (b) (ii) of this subsection shall be governed by the following provisions:

1. A memorandum, in form and substance as specified in the valuation manual, and acceptable to the director, shall be prepared to support each actuarial opinion.

2. If the insurance company fails to provide a supporting memorandum at the request of the director within a period specified in the valuation manual or the director determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the valuation manual or is otherwise unacceptable to the director, the director may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting memorandum required by the director.

(iv) Requirements for opinions subject to this paragraph. Every opinion shall be governed by the following provisions:

1. The opinion shall be in form and substance as specified in the valuation manual and acceptable to the director.

2. The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after the operative date of the valuation manual.

3. The opinion shall apply to all policies and contracts subject to subparagraph (ii) of this paragraph, plus other actuarial liabilities as may be specified in the valuation manual.

4. The opinion shall be based on standards adopted from time to time by the actuarial standards board or its successor, and on such additional standards as may be prescribed in the valuation manual.

5. In the case of an opinion required to be submitted by a foreign or alien company, the director may accept the opinion filed by that company with the insurance supervisory official of another state if the director determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

6. Except in cases of fraud or willful misconduct, the appointed actuary shall not be liable for damages to any per-

son, other than the insurance company and the director, for any act, error, omission, decision or conduct with respect to the appointed actuary's opinion.

7. Disciplinary action by the director against the company or the qualified actuary shall be defined by rule by the director.

(13) Minimum standard for accident and health insurance contracts. For disability insurance contracts issued on or after the operative date specified in section 41-1927, Idaho Code, and prior to the operative date of the valuation manual, the minimum standard of valuation is the standard adopted by the director by regulation. For accident and health insurance contracts issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under subsection (2) (b) of this section.

(14) Valuation manual for policies issued on or after the operative date of the valuation manual.

(a) For policies issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under subsection (2) (b) of this section, except as provided under paragraph (e) or (g) of this subsection.

(b) The operative date of the valuation manual is January 1 of the first calendar year following the first July 1 as of which all of the following have occurred:

(i) The valuation manual has been adopted by the NAIC by an affirmative vote of at least forty-two (42) members, or three-fourths (3/4) of the members voting, whichever is greater.

(ii) The standard valuation law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by states representing greater than seventy-five percent (75%) of the direct premiums written as reported in the following annual statements submitted for 2008: life, accident and health annual statements; health annual statements; or fraternal annual statements.

(iii) The standard valuation law, as amended by the NAIC in 2009, or legislation, including substantially similar terms and provisions, has been enacted by at least forty-two (42) of the following fifty-five (55) jurisdictions: the fifty (50) states of the United States, American Samoa, the American Virgin Islands, the District of Columbia, Guam and Puerto Rico.

The director may confirm the operative date of the valuation manual by bulletin or otherwise.

(c) Unless a change in the valuation manual specifies a later effective date, changes to the valuation manual shall be effective on January 1 following the date when both of the following have occurred:

(i) The change to the valuation manual has been adopted by the NAIC by an affirmative vote representing:

1. At least three-fourths (3/4) of the members of the NAIC voting, but not less than a majority of the total membership; and

2. Members of the NAIC representing jurisdictions totaling greater than seventy-five percent (75%) of the direct premiums written as reported in the following annual statements most recently available prior to the vote specified in this paragraph: life, accident and health annual statements; health annual statements; or fraternal annual statements;

(ii) The change to the valuation manual has been adopted by the director by rule, administrative order or bulletin.

(d) The valuation manual must specify all of the following:

(i) Minimum valuation standards for and definitions of the policies or contracts subject to subsection (2) (b) of this section. Such minimum valuation standards shall be:

1. The commissioner's reserve valuation method for life insurance contracts, other than annuity contracts, subject to subsection (2) (b) of this section;
2. The commissioner's annuity reserve valuation method for annuity contracts subject to subsection (2) (b) of this section; and
3. Minimum reserves for all other policies or contracts subject to subsection (2) (b) of this section.

(ii) Which policies or contracts or types of policies or contracts that are subject to the requirements of a principle-based valuation in subsection (15) (a) of this section and the minimum valuation standards consistent with those requirements;

(iii) For policies and contracts subject to a principle-based valuation under subsection (15) of this section:

1. Requirements for the format of reports to the director under subsection (15) (b) (iii) of this section and which shall include information necessary to determine if the valuation is appropriate and in compliance with this section;
2. Assumptions shall be prescribed for risks over which the company does not have significant control or influence.
3. Procedures for corporate governance and oversight of the actuarial function, and a process for appropriate waiver or modification of such procedures;

(iv) For policies not subject to a principle-based valuation under subsection (15) of this section the minimum valuation standard shall either:

1. Be consistent with the minimum standard of valuation prior to the operative date of the valuation manual; or
2. Develop reserves that quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring.

(v) Other requirements including, but not limited to, those relating to reserve methods, models for measuring risk, generation of economic scenarios, assumptions, margins, use of company experience, risk measurement, disclosure, certifications, reports, actuarial opinions and memorandums, transition rules and internal controls; and

(vi) The data and form of the data required under subsection (16) of this section, with whom the data must be submitted, and may specify other requirements including data analyses and reporting of analyses.

(e) In the absence of a specific valuation requirement or if a specific valuation requirement in the valuation manual is not, in the opinion of the director, in compliance with this section, then the company shall, with respect to such requirements, comply with minimum valuation standards prescribed by the director by rule.

(f) The director may engage a qualified actuary, at the expense of the company, to perform an actuarial examination of the company and opine on the appropriateness of any reserve assumption or method used by the company, or to review and opine on a company's compliance with any requirement set forth in this section. The director may rely upon the opinion, regarding provisions contained within this section, of a qualified actuary engaged by the commissioner of another state, district or terri-

tory of the United States. As used in this paragraph, the term "engage" includes employment and contracting.

(g) The director may require a company to change any assumption or method that in the opinion of the director is necessary in order to comply with the requirements of the valuation manual or this section, and the company shall adjust the reserves as required by the director. The director may take other disciplinary action as permitted pursuant to chapter 2, title 41, Idaho Code.

(15) Requirements of a principle-based valuation.

(a) A company must establish reserves using a principle-based valuation that meets the following conditions for policies or contracts as specified in the valuation manual:

(i) Quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring during the lifetime of the contracts. Policies or contracts with significant tail risk shall reflect conditions appropriately adverse to quantify the tail risk;

(ii) Incorporate assumptions, risk analysis methods and financial models and management techniques that are consistent with, but not necessarily identical to, those utilized within the company's overall risk assessment process, while recognizing potential differences in financial reporting structures and any prescribed assumptions or methods;

(iii) Incorporate assumptions that are derived in one (1) of the following manners:

1. The assumption is prescribed in the valuation manual.
2. For assumptions that are not prescribed, the assumptions shall:

(A) Be established utilizing the company's available experience, to the extent it is relevant and statistically credible; or

(B) To the extent that company data is not available, relevant or statistically credible, be established utilizing other relevant, statistically credible experience;

(iv) Provide margins for uncertainty, including adverse deviation and estimation error, such that the greater the uncertainty the larger the margin and resulting reserve.

(b) A company using a principle-based valuation for one (1) or more policies or contracts subject to this subsection as specified in the valuation manual shall:

(i) Establish procedures for corporate governance and oversight of the actuarial valuation function consistent with those described in the valuation manual;

(ii) Provide to the director and the company's board of directors an annual certification of the effectiveness of the internal controls with respect to the principle-based valuation. Such controls shall be designed to assure that all material risks inherent in the liabilities and associated assets subject to such valuation are included in the valuation, and that valuations are made in accordance with the valuation manual. The certification shall be based on the controls in place as of the end of the preceding calendar year;

(iii) Develop, and file with the director upon request, a principle-based valuation report that complies with standards prescribed in the valuation manual.

(c) A principle-based valuation may include a prescribed formulaic reserve component.

(16) Experience reporting for policies in force on or after the operative date of the valuation manual. A company shall submit mortality, morbidity, policyholder behavior, or expense experience and other data as prescribed in the valuation manual.

(17) Confidentiality.

(a) For purposes of this subsection, "confidential information" means:

(i) A memorandum in support of an opinion submitted under subsection (12) of this section and any other documents, materials and other information including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the director or any other person in connection with such memorandum;

(ii) All documents, materials and other information including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the director or any other person in the course of an examination made under subsection (14) (f) of this section; provided however, that if an examination report or other material prepared in connection with an examination made under chapter 2, title 41, Idaho Code, is not held as private and confidential information under chapter 2, title 41, Idaho Code, an examination report or other material prepared in connection with an examination made under subsection (14) (f) of this section shall not be confidential information to the same extent as if such examination report or other material had been prepared under chapter 2, title 41, Idaho Code.

(iii) Any reports, documents, materials and other information developed by a company in support of, or in connection with, an annual certification by the company under subsection (15) (b) (ii) of this section evaluating the effectiveness of the company's internal controls with respect to a principle-based valuation and any other documents, materials and other information including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the director or any other person in connection with such reports, documents, materials and other information;

(iv) Any principle-based valuation report developed under subsection (15) (b) (iii) of this section and any other documents, materials and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the director or any other person in connection with such report; and

(v) Any documents, materials, data and other information submitted by a company under subsection (16) of this section (collectively, "experience data") and any other documents, materials, data and other information including, but not limited to, all working papers, and copies thereof, created or produced in connection with such experience data, in each case that includes any potentially company-identifying or personally identifiable information, that is provided to or obtained by the director (together with any "experience data," the "experience materials") and any other documents, materials, data and other information including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the director or any other person in connection with such experience materials.

(b) Privilege for, and confidentiality of, confidential information.

(i) Except as provided in this subsection, a company's confidential information is confidential by law and privileged, and shall not be subject to public disclosure under chapter 1, title 74, Idaho Code, shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action; provided however, that the director is authorized to use the confidential information in the furtherance of any regulatory or legal action brought against the company as a part of the director's official duties;

(ii) Neither the director nor any person who received confidential information while acting under the authority of the director shall be permitted or required to testify in any private civil action concerning any confidential information;

(iii) In order to assist in the performance of the director's duties, the director may share confidential information:

1. With other state, federal and international regulatory agencies and with the NAIC and its affiliates and subsidiaries; and

2. In the case of confidential information specified in paragraph (a) (i) and (iv) of this subsection only, with the actuarial board for counseling and discipline or its successor upon request stating that the confidential information is required for the purpose of professional disciplinary proceedings and with state, federal and international law enforcement officials.

In the case of paragraph (b) (iii) 1. and 2. of this subsection, provided that such recipient agrees, and has the legal authority to agree, to maintain the confidentiality and privileged status of such documents, materials, data and other information in the same manner and to the same extent as required for the director.

(iv) The director may receive documents, materials, data and other information, including otherwise confidential and privileged documents, materials, data or information, from the NAIC and its affiliates and subsidiaries, from regulatory or law enforcement officials of other foreign or domestic jurisdictions and from the actuarial board for counseling and discipline or its successor and shall maintain as confidential or privileged any document, material, data or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or other information.

(v) The director may enter into agreements governing sharing and use of information consistent with this paragraph.

(vi) No waiver of any applicable privilege or claim of confidentiality in the confidential information shall occur as a result of disclosure to the director under this subsection or as a result of sharing as authorized in subparagraph (iii) of this paragraph.

(vii) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this paragraph shall be available and enforced in any proceeding in, and in any court of, this state.

(viii) In this subsection, "regulatory agency," "law enforcement agency" and the "NAIC" include, but are not limited to, their employees, agents, consultants and contractors.

(c) Notwithstanding paragraph (b) of this subsection, any confidential information specified in paragraph (a) (i) and (iv) of this subsection:

(i) May be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary submitting the related memorandum in support of an opinion submitted under subsec-

tion (12) of this section or principle-based valuation report developed under subsection (15) (b) (iii) of this section by reason of an action required by this section or by rule promulgated hereunder;

(ii) May otherwise be released by the director with the written consent of the company; and

(iii) Once any portion of a memorandum in support of an opinion submitted under subsection (12) of this section or a principle-based valuation report developed under subsection (15) (b) (iii) of this section is cited by the company in its marketing or is publicly volunteered to or before a governmental agency other than a state insurance department or is released by the company to the news media, all portions of such memorandum or report shall no longer be confidential.

(18) Single state examination:

(a) The director may exempt specific product forms or product lines of a domestic company that is licensed and doing business only in Idaho from the requirements of subsection (14) of this section provided:

(i) The director has issued an exemption in writing to the company and has not subsequently revoked the exemption in writing; and

(ii) The company computes reserves using assumptions and methods used prior to the operative date of the valuation manual, in addition to any requirements established by the director and promulgated by rule.

(b) For any company granted an exemption under this section, subsections (4), (4a), (4b), (5), (6), (7), (8), (9), (10), (11), (12) and (13) of this section shall be applicable. With respect to any company applying this exemption, any reference to subsection (14) found in subsections (4), (4a), (4b), (5), (6), (7), (8), (9), (10), (11), (12) and (13) of this section shall not be applicable.

SECTION 2. That Section 41-1927, Idaho Code, be, and the same is hereby amended to read as follows:

41-1927. STANDARD NONFORFEITURE LAW -- LIFE INSURANCE.

(1) (a) This section shall be known as the standard nonforfeiture law for life insurance.

(b) "Operative date of the valuation manual" means January 1 of the first calendar year that the valuation manual, as defined in section 41-612, Idaho Code, is effective.

(2) Nonforfeiture provisions: In the case of policies issued on or after the operative date of this section as defined in subsection (14) of this section, no policy of life insurance, except as set forth in subsection (13) of this section, shall be delivered or issued for delivery in this state unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the director are at least as favorable to the defaulting or surrendering policyholder as are the minimum requirements hereinafter specified and are essentially in compliance with subsection (12) of this law:

(a) That in the event of default in any premium payment, the insurer will grant, upon proper request not later than sixty (60) days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such amount as may be hereinafter specified. In lieu of such stipulated paid-up nonforfeiture benefit, the insurer may substitute, upon proper request not later than sixty (60) days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit which provides a greater amount or longer period of death

benefits or, if applicable, a greater amount or earlier payment of endowment benefits.

(b) That upon surrender of the policy within sixty (60) days after the due date of any premium payment in default after premiums have been paid for at least three (3) full years in the case of ordinary insurance, and five (5) full years in the case of industrial insurance, the insurer will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be hereinafter specified.

(c) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than sixty (60) days after the due date of the premium in default.

(d) That if the policy shall have become paid up by completion of all premium payments, or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance, or the fifth policy anniversary in the case of industrial insurance, the insurer will pay, upon surrender of the policy within thirty (30) days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified.

(e) In the case of policies which cause, on a basis guaranteed in the policy, unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, a statement of the mortality table, interest rate, and method used in calculating cash surrender values and the paid-up nonforfeiture benefits available under the policy. In the case of all other policies, a statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary, either during the first twenty (20) policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the insurer on the policy.

(f) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of this state; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the insurer on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated therein, a statement that such method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered; and a statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

(3) Any of the provisions or portions thereof set forth in subdivisions (a) through (f) of the foregoing subsection (2) which are not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy. The insurer shall reserve the right to defer the payment of any cash surrender value for a period of six (6) months after demand therefor with surrender of the policy. If the insurer defers payment of a cash surrender value under the provisions of this section, the insurer shall pay interest to the policyholder at the rate specified in section 28-22-104(2), Idaho Code, as established and in existence at the time of the surrender demand.

(4) Cash surrender value: Any cash surrender value available under the policy in the event of default in the premium payment due on any policy anniversary, whether or not required by subsection (2) of this section, shall be an amount not less than the excess, if any, of the present value on such anniversary of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions if there had been no default, over the sum of:

(a) The then present value of the adjusted premiums as defined in subsections (6) through (9) of this section, corresponding to premiums which would have fallen due on and after such anniversary, and

(b) The amount of any indebtedness to the insurer on account of or secured by the policy. Provided, however, that for any policy issued on or after the operative date of subsection (9) (d) as defined therein, which provides supplemental life insurance or annuity benefits at the option of the insured and for an identifiable additional premium by rider or supplemental policy provision, the cash surrender value referred to in the first paragraph of this subsection shall be an amount not less than the sum of the cash surrender value as defined in such paragraph for an otherwise similar policy issued at the same age without such rider or supplemental policy provision and the cash surrender value as defined in such paragraph for a policy which provides only the benefits otherwise provided by such rider or supplemental policy provision. Provided, further, that for any family policy issued on or after the operative date of subsection (9) (d) as defined therein, which defines a primary insured and provides term insurance on the life of the spouse of the primary insured expiring before the spouse's age seventy-one (71), the cash surrender value referred to in the first paragraph of this subsection shall be an amount not less than the sum of the cash surrender value as defined in such paragraph for an otherwise similar policy issued at the same age without such term insurance on the life of the spouse and the cash surrender value as defined in such paragraph for a policy which provides only the benefits otherwise provided by such term insurance on the life of the spouse.

Any cash surrender value available within thirty (30) days after any policy anniversary under any policy paid up by completion of all premium payments, or any policy continued under any paid-up nonforfeiture benefits, whether or not required by such subsection (2), shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the insurer on account of or secured by the policy.

(5) Paid-up nonforfeiture benefits: Any paid-up nonforfeiture benefit available under the policy in the event of default in the premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy, or, if none is provided for, that cash surrender value which would have been required by this section in the absence of the conditions that premiums shall have been paid for at least a specified period.

(6) The adjusted premium: This subsection ~~(6)~~ shall not apply to policies issued on or after the operative date of subsection (9) (d) as defined therein. Except as provided in subsection (8) of this section, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding extra premiums on a substandard policy, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of:

(a) The then present value of the future guaranteed benefits provided for by the policy;

(b) Two per cent (2%) of the amount of the insurance if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with the duration of the policy;

(c) Forty per cent (40%) of the adjusted premium for the first policy year;

(d) Twenty-five per cent (25%) of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less, provided, however, that in applying the percentages specified in subdivisions (c) and (d) above, no adjusted premiums shall be deemed to exceed four per cent (4%) of the amount of insurance or uniform amount equivalent thereto. Whenever the plan or term of a policy has been changed, either by request of the insured or automatically in accordance with the provisions of the policy, the date of issue of the changed policy for the purposes of determining a nonforfeiture benefit or cash surrender value shall be the date as of which the age of the insured is determined for the purposes of the changed policy. The date of issue of a policy for the purposes of this subsection shall be the date as of which the rated age of the insured is determined.

(7) In the case of a policy providing an amount of insurance varying with the duration of the policy, the equivalent uniform amount thereof for the purpose of the preceding subsection (6) shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy, provided, however, that in the case of a policy for a varying amount of insurance issued on the life of a child under age ten (10), the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age ten (10) were the amount provided by such policy at age ten (10).

(8) The adjusted premiums for any policy providing term insurance benefits by any rider or supplemental policy provision shall be equal to (a) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by (b) the adjusted premiums for such term insurance, the foregoing items (a) and (b) being calculated separately and as specified in subsections (6) and (7) except that, for the purposes of subdivisions (b), (c) and (d) of subsection (6), the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in (b) shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in (4) (a).

(9) (a) Except as provided in subdivisions (b), (c) and (d) of this subsection, all adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the commissioners 1941 standard ordinary mortality table, provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated, at the option of the insurer according to an age not more than three (3) years younger than the actual age of the insured and such calculations for all policies of industrial insurance shall be made on the basis of the 1941 standard industrial mortality table. All calculations shall be made on the basis of the rate of interest, not exceeding three and one-half per cent (3 1/2%) per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided, however, that in calculating the present value of any paid-up term

insurance with accompanying pure endowment, if any, offered as a non-forfeiture benefit, the rates of mortality assumed may be not more than one hundred thirty per cent (130%) of the rates of mortality according to such applicable table, provided further that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the director.

(b) This subsection (9) (b) shall not apply to ordinary policies issued on or after the operative date of subsection (9) (d) as defined therein. In the case of ordinary policies issued on or after the operative date of this subdivision as defined herein, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the commissioners' 1958 standard ordinary mortality table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided that such rate of interest shall not exceed three and one-half per cent (3 1/2%) per annum except that a rate of interest not exceeding four per cent (4%) per annum may be used for policies issued on or after July 1, 1973, and prior to July 1, 1977, and a rate of interest not exceeding five and one-half per cent (5 1/2%) per annum may be used for policies issued on or after July 1, 1977, except that for any single premium whole life or endowment insurance policy at a rate of interest not exceeding six and one-half per cent (6 1/2%) per annum may be used and provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than six (6) years younger than the actual age of the insured. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioners' 1958 extended term insurance table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the director.

On or after the operative date of this section as defined in subsection (14) of this section, any insurer may file with the director a written notice of its election to comply with the provisions of this subdivision after a specified date before January 1, 1966. After the filing of such notice, then upon such specified date (which shall be the operative date of this subdivision for such insurer), this subdivision shall become operative with respect to the ordinary policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of this subdivision for such insurer shall be January 1, 1966.

(c) This subsection (9) (c) shall not apply to industrial policies issued on or after the operative date of subsection (9) (d) as defined therein. In the case of industrial policies issued on or after the operative date of this subdivision as defined herein, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the commissioners' 1961 standard industrial mortality table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits provided that such rate of interest shall not exceed three and one-half per cent (3 1/2%) per annum except that a rate of interest not exceeding four per cent (4%) per annum may be used for policies issued on or after July 1, 1973, and prior to July 1, 1977, and a rate of interest not exceeding five and one-half per cent (5 1/2%) per annum may be used for policies issued on or after July 1, 1977, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding six and one-half per cent (6 1/2%) per annum may be used. Provided, however,

that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioners' 1961 industrial extended term insurance table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the director.

After the effective date of this amendatory act, any insurer may file with the director a written notice of its election to comply with the provisions of this subdivision after a specified date before January 1, 1968. After the filing of such notice, then upon such specified date (which shall be the operative date of this subdivision for such insurer), this subdivision shall become operative with respect to the industrial policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of this subdivision for such insurer shall be January 1, 1968.

(d) (i) Subsection (9) (d) shall apply to all policies issued on or after the operative date of this subsection (9) (d) as defined herein. Except as provided in paragraph vii of this subsection, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums shall be equal to the sum of (A) the then present value of the future guaranteed benefits provided for by the policy; (B) one per cent (1%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years; and (C) one hundred twenty-five per cent (125%) of the nonforfeiture net level premium as hereinafter defined. Provided, however, that in applying the percentage specified in (C) above, no nonforfeiture net level premium shall be deemed to exceed four per cent (4%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years. The date of issue of a policy for the purpose of this subsection shall be the date as of which the rated age of the insured is determined.

(ii) The nonforfeiture net level premium shall be equal to the present value, at the date of issue of the policy, of the guaranteed benefits provided for by the policy divided by the present value, at the date of issue of the policy, of an annuity of one (1) per annum payable on the date of issue of the policy and on each anniversary of such policy on which a premium falls due.

(iii) In the case of policies which cause, on a basis guaranteed in the policy, unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, the adjusted premiums and present values shall initially be calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of any such change in the benefits or premiums, the future adjusted premiums, nonforfeiture net level premiums and present values shall be recalculated on the

assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.

(iv) Except as otherwise provided in paragraph vii of this subsection, the recalculated future adjusted premiums for any such policy shall be such uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards, and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the time of change to the newly defined benefits or premiums, of all such future adjusted premiums shall be equal to the excess of the sum of (A) the then present value of the then future guaranteed benefits provided for by the policy and (B) the additional expense allowance, if any, over the then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under the policy.

(v) The additional expense allowance, at the time of the change to the newly defined benefits or premiums, shall be the sum of (A) one per cent (1%) of the excess, if positive, of the average amount of insurance at the beginning of each of the first ten (10) policy years subsequent to the change over the average amount of insurance prior to the change at the beginning of each of the first ten (10) policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy; and (B) one hundred twenty-five per cent (125%) of the increase, if positive, in the nonforfeiture net level premium.

(vi) The recalculated nonforfeiture net level premium shall be equal to the result obtained by dividing (A) by (B) where

(A) equals the sum of

1. the nonforfeiture net level premium applicable prior to the change, times the present value of an annuity of one (1) per annum payable on each anniversary of the policy on or subsequent to the date of the change on which a premium would have fallen due had the change not occurred, and
2. the present value of the increase in future guaranteed benefits provided for by the policy, and

(B) equals the present value of an annuity of one (1) per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due.

(vii) Notwithstanding any other provisions of this subsection to the contrary, in the case of a policy issued on a substandard basis which provides reduced graded amounts of insurance so that, in each policy year, such policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis which provides higher uniform amounts of insurance, adjusted premiums and present values, for such substandard policy may be calculated as if it were issued to provide such higher uniform amounts of insurance on the standard basis.

(viii) All adjusted premiums and present values referred to in this section shall, for all policies of ordinary insurance, be calculated on the basis of (A) the commissioners 1980 standard ordinary mortality table or (B) at the election of the insurer for any one or more specified plans of life insurance, the commissioners 1980 standard ordinary mortality table with ten-year select mortality factors; shall, for all policies of industrial insurance, be calculated on the basis of the commissioners 1961

standard industrial mortality table; and shall for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this subsection, for policies issued in that calendar year. Provided, however, that:

1. At the option of the insurer, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in this subsection, for policies issued in the immediately preceding calendar year.

2. Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by subsection (2) shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of such paid-up nonforfeiture benefit and paid-up dividend additions, if any.

3. An insurer may calculate the amount of any guaranteed paid-up nonforfeiture benefit including any paid-up additions under the policy on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values.

4. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioners 1980 extended term insurance table for policies of ordinary insurance and not more than the commissioners 1961 industrial extended term insurance table for policies of industrial insurance.

5. For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on appropriate modifications of the aforementioned tables.

6. (A) Any For policies issued prior to the operative date of the valuation manual, any commissioners standard ordinary mortality tables, adopted after 1980 by the national association of insurance commissioners, that are approved by regulation promulgated by the director for use in determining the minimum nonforfeiture standard may be substituted for the commissioners 1980 standard ordinary mortality table with or without ten-year select mortality factors or for the commissioners 1980 extended term insurance table.

(B) For policies issued on or after the operative date of the valuation manual, the valuation manual shall provide the commissioners standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the commissioners 1980 standard ordinary mortality table with or without ten-year select mortality factors or for the commissioners 1980 extended term insurance table. If the director approves by regulation any commissioners standard ordinary mortality table adopted by the national association of insurance

commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

7. (A) Any For policies issued prior to the operative date of the valuation manual, any commissioners standard industrial mortality tables, adopted after 1980 by the national association of insurance commissioners, that are approved by regulation promulgated by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the commissioners 1961 standard industrial mortality table or the commissioners 1961 industrial extended term insurance table.

(B) For policies issued on or after the operative date of the valuation manual, the valuation manual shall provide the commissioners standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the commissioners 1961 standard industrial mortality table or the commissioners 1961 industrial extended term insurance table. If the director approves by regulation any commissioners standard industrial mortality table adopted by the national association of insurance commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

(ix) The nonforfeiture interest rate is defined below:

1. For policies issued prior to the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to one hundred twenty-five per cent percent (125%) of the interest rate used in determining the minimum standard for the valuation of such policy as defined in the standard valuation law, rounded to the nearer one-quarter of one per cent percent (1/4 of 1%).

2. For policies issued on and after the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be provided by the valuation manual.

(x) Notwithstanding any other provision in this code to the contrary, any refiling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest rate or mortality table used to compute nonforfeiture values shall not require refiling of any other provisions of that policy form.

(xi) After the effective date of subsection (9) (d), any insurer may file with the director a written notice of its election to comply with the provisions of this subsection after a specified date before January 1, 1989, which shall be the operative date of this subsection for such insurer. If an insurer makes no such elec-

tion, the operative date of this subsection for such insurer shall be January 1, 1989.

(10) In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurer based on the then estimates of future experience, or in the case of any plan of life insurance which is of such a nature that minimum values cannot be determined by the methods described in subsections (2) through (9) herein, then:

(a) The director must be satisfied that the benefits provided under the plan are substantially as favorable to policyholders and insureds as the minimum benefits otherwise required by subsections (2) through (9) herein;

(b) The director must be satisfied that the benefits and the pattern of premiums of that plan are not such as to mislead prospective policyholders or insureds;

(c) The cash surrender values and paid-up nonforfeiture benefits provided by such plan must not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of this standard nonforfeiture law for life insurance, as determined by regulations promulgated by the director.

(11) Calculation of values: Any cash surrender value and any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in subsections (4) through (9) of this section may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the amounts used to provide such additions. Notwithstanding the provisions of subsection (4) of this section, additional benefits payable:

(a) In the event of death or dismemberment by accident or accidental means,

(b) In the event of total and permanent disability,

(c) As reversionary annuity or deferred reversionary annuity benefits,

(d) As term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply,

(e) As term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if such term insurance expires before the child's age is twenty-six (26), is uniform in amount after the child's age is one (1), and has not become paid-up by reason of the death of a parent of the child, and

(f) As other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

(12) This subsection, in addition to all other applicable subsections of this section, shall apply to all policies issued on or after January 1, 1986. Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary shall be in an amount which does not differ by more than two-tenths of one per cent (2/10 of 1%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years, from the sum of:

(a) The greater of zero and the basic cash value hereinafter specified; and

(b) The present value of any existing paid-up additions less the amount of any indebtedness to the insurer under the policy.

The basic cash value shall be equal to the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, excluding any existing paid-up additions and before deduction of any indebtedness to the insurer, if there had been no default, less the then present value of the nonforfeiture factors, as hereinafter defined, corresponding to premiums which would have fallen due on and after such anniversary. Provided, however, that the effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage, as described in subsection (4) or (8), whichever is applicable, shall be the same as are the effects specified in subsection (4) or (8), whichever is applicable, on the cash surrender values defined in that subsection.

The nonforfeiture factor for each policy year shall be an amount equal to a percentage of the adjusted premium for the policy year, as defined in subsection (6) or (9) (d), whichever is applicable. Except as is required by the next succeeding sentence of this paragraph, such percentage:

(a) Must be the same percentage for each policy year between the second policy anniversary and the later of (i) the fifth policy anniversary and (ii) the first policy anniversary at which there is available under the policy a cash surrender value in an amount, before including any paid-up additions and before deducting any indebtedness, of at least two-tenths of one per cent ($2/10$ of 1%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years; and

(b) Must be such that no percentage after the later of the two (2) policy anniversaries specified in the preceding paragraph (a) may apply to fewer than five (5) consecutive policy years.

Provided, that no basic cash value may be less than the value which would be obtained if the adjusted premiums for the policy, as defined in subsection (6) or (9) (d), whichever is applicable, were substituted for the nonforfeiture factors in the calculation of the basic cash value.

All adjusted premiums and present values referred to in this subsection shall, for a particular policy, be calculated on the same mortality and interest basis as are used in demonstrating the policy's compliance with the other subsections of this section. The cash surrender values referred to in this subsection shall include any endowment benefits provided for by the policy.

Any cash surrender value available other than in the event of default in a premium payment due on a policy anniversary, and the amount of any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment shall be determined in manners consistent with the manners specified for determining the analogous minimum amounts in subsections (2), (3), (4), (5), (9) (d) and (11). The amounts of any cash surrender values and of any paid-up nonforfeiture benefits granted in connection with additional benefits such as those listed as items (a) through (f) in subsection (11) shall conform with the principles of this subsection (12).

(13) Exceptions. This section shall not apply to any of the following:

(a) Reinsurance,

(b) Group insurance,

(c) Variable life insurance,

(d) Pure endowment,

(e) Annuity or reversionary annuity contract,

(f) Term policy of uniform amount which provides no guaranteed nonforfeiture or endowment benefits, or renewal thereof, of twenty (20) years or less expiring before age seventy-one (71), for which uniform premiums are payable during the entire term of the policy,

(g) Term policy of decreasing amount, which provides no guaranteed nonforfeiture or endowment benefits, on which each adjusted premium,

calculated as specified in subsections (6) through (9) of this section, is less than the adjusted premiums so calculated on a policy of uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same age and for the same initial amount of insurance and for a term of twenty (20) years or less expiring before age seventy-one (71), for which uniform premiums are payable during the entire term of the policy;

(h) Policy, which provides no guaranteed nonforfeiture or endowment benefits, for which no cash surrender value, if any, or present value of any paid-up nonforfeiture benefit, at the beginning of any policy year, calculated as specified in subsections (4) through (9) of this section, exceeds two and one-half per cent (2 1/2%) of the amount of insurance at the beginning of the same policy year;

(i) Policy which shall be delivered outside this state through an agent or other representative of the insurer issuing the policy.

For purposes of determining the applicability of this section, the age at expiry for a joint term life insurance policy shall be the age at expiry of the oldest life.

(14) Operative date. After January 1, 1962, any insurer may file with the director a written notice of its election to comply with the provisions of this section after a specified date before January 1, 1963. After the filing of such notice, then upon such specified date (which shall be the operative date for such insurer) this section shall become operative with respect to the policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of this section for such insurer shall be January 1, 1963.

SECTION 3. That Section 74-107, Idaho Code, be, and the same is hereby amended to read as follows:

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 commission 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 admis-

sibility 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.

(29) Information submitted to insurance companies pursuant to section 42-612(17), Idaho Code.

Approved March 16, 2016

CHAPTER 69
(H.B. No. 474)

AN ACT

RELATING TO TAXING DISTRICT BUDGETS; AMENDING SECTION 63-802, IDAHO CODE, TO REQUIRE NOTICE, A PUBLIC HEARING AND A RESOLUTION WITH CERTAIN INFORMATION BEFORE A TAXING DISTRICT MAY BUDGET A FORGONE INCREASE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-802, IDAHO CODE, AS AMENDED BY SECTION 2, CHAPTER 10, LAWS OF 2015, TO REQUIRE NOTICE, A PUBLIC HEARING AND A RESOLUTION WITH CERTAIN INFORMATION BEFORE A TAXING DISTRICT MAY BUDGET A FORGONE INCREASE AND TO MAKE TECHNICAL CORRECTIONS; AND TO PROVIDE EFFECTIVE DATES.

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~~ forgone increase by certifying, in addition to any increase otherwise allowed, an amount not to exceed one hundred percent (100%) of the increase originally ~~foregone~~ forgone. Provided however, that prior to budgeting any forgone increase, the district must provide notice of its intent to do so, hold a public hearing, which may be in conjunction with its annual budget hearing, and certify by resolution the amount of forgone increase to be budgeted and the specific purpose for which the forgone increase is being budgeted. Upon adoption of the resolution, the clerk of the district shall file a copy of the resolution with the county clerk and the state tax commission. 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 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 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 amended by Section 2, Chapter 10, Laws of 2015, 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~~ forgone increase by certifying, in addition to any increase otherwise allowed, an amount not to exceed one hundred percent (100%) of the increase originally ~~foregone~~ forgone. Provided however, that prior to budgeting any forgone increase, the district must provide notice of its intent to do so, hold a public hearing, which may be in conjunction with its annual budget hearing, and certify by resolution the amount of forgone increase to be budgeted and the specific purpose for which the forgone increase

is being budgeted. Upon adoption of the resolution, the clerk of the district shall file a copy of the resolution with the county clerk and the state tax commission. 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 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. The provisions of Section 1 of this act shall be in full force and effect on and after July 1, 2016. The provisions of Section 2 of this act shall be in full force and effect on and after July 1, 2017.

Approved March 16, 2016

CHAPTER 70
(H.B. No. 335)

AN ACT

RELATING TO CONTROLLED SUBSTANCES; AMENDING SECTION 37-2707, IDAHO CODE, TO REVISE THE LIST OF SCHEDULE II UNIFORM CONTROLLED SUBSTANCES AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 37-2707, Idaho Code, be, and the same is hereby amended to read as follows:

37-2707. SCHEDULE II. (a) Schedule II 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) Substances, vegetable origin or chemical synthesis. Unless specifically excepted or unless listed in another schedule, any of the following substances 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, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone, naltrexone and their respective salts, but including the following:

1. Raw opium;
2. Opium extracts;
3. Opium fluid extracts;
4. Powdered opium;
5. Granulated opium;
6. Tincture of opium;
7. Codeine;
8. Dihydroetorphine;
9. Diprenorphine;
10. Ethylmorphine;
11. Etorphine hydrochloride;
12. Hydrocodone;
13. Hydromorphone;
14. Metopon;
15. Morphine;
16. Oripavine;
17. Oxycodone;
18. Oxymorphone;
19. Tapentadol;
20. Thebaine.

(2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (b) (1) of this section, except that these substances shall not include 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, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but shall not including include the following:

1. Ddecocainized coca leaves or extractions of coca leaves, which extractions do not contain cocaine; or ecgonine; or
2. [¹²³I]ioflupane.

(5) Benzoylecgonine.

(6) Methylbenzoylecgonine (Cocaine - its salts, optical isomers, and salts of optical isomers).

(7) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrine alkaloids of the opium poppy).

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

- (1) Alfentanil;
- (2) Alphaprodine;
- (3) Anileridine;
- (4) Bezitramide;
- (5) Bulk Dextropropoxyphene (nondosage forms);
- (6) Carfentanil;
- (7) Dihydrocodeine;
- (8) Diphenoxylate;
- (9) Fentanyl;
- (10) Isomethadone;
- (11) Levo-alpha-acetylmethadol (also known as levo-alpha-acetylmethadol, levomethadyl acetate, LAAM);
- (12) Levomethorphan;
- (13) Levorphanol;
- (14) Metazocine;
- (15) Methadone;
- (16) Methadone -- Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- (17) Moramide -- Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl propane-carboxylic acid;
- (18) Pethidine (meperidine);
- (19) Pethidine -- Intermediate -- A, 4-cyano-1-methyl-4-phenyl-piperidine;
- (20) Pethidine -- Intermediate -- B, ethyl-4-phenylpiperidine-4-carboxylate;
- (21) Pethidine -- Intermediate -- C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (22) Phenazocine;
- (23) Piminodine;
- (24) Racemethorphan;
- (25) Racemorphan;
- (26) Remifentanil;
- (27) Sufentanil.

(d) 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:

- (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- (2) Lisdexamfetamine;
- (3) Methamphetamine, its salts, isomers, and salts of its isomers;

- (4) Phenmetrazine and its salts;
- (5) Methylphenidate.

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

- (1) Amobarbital;
- (2) Glutethimide;
- (3) Pentobarbital;
- (4) Phencyclidine;
- (5) Secobarbital.
- (f) Hallucinogenic substances.

(1) Nabilone (another name for nabilone: (+/-)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one) (21 C.F.R. 1308.12 (f)).

(g) Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

- (1) Immediate precursor to amphetamine and methamphetamine:
 - (a) Anthranilic acid;
 - (b) Ephedrine;
 - (c) Lead acetate;
 - (d) Methylamine;
 - (e) Methyl formamide;
 - (f) N-methylephedrine;
 - (g) Phenylacetic acid;
 - (h) Phenylacetone;
 - (i) Phenylpropanolamine;
 - (j) Pseudoephedrine.

Except that any combination or compound containing ephedrine, or any of its salts and isomers, or phenylpropanolamine or its salts and isomers, or pseudoephedrine, or any of its salts and isomers which is prepared for dispensing or over-the-counter distribution is not a controlled substance for the purpose of this section, unless such substance is possessed, delivered, or possessed with intent to deliver to another with the intent to manufacture methamphetamine, amphetamine or any other controlled substance in violation of section 37-2732, Idaho Code. For purposes of this provision, the requirements of the uniform controlled substances act shall not apply to a manufacturer, wholesaler or retailer of over-the-counter products containing the listed substances unless such person possesses, delivers, or possesses with intent to deliver to another the over-the-counter product with intent to manufacture a controlled substance.

(2) Immediate precursors to phencyclidine (PCP):

- (a) 1-phenylcyclohexylamine;
- (b) 1-piperidinocyclohexanecarbonitrile (PCC).

(3) Immediate precursor to fentanyl: 4-anilino-N-phenethyl-4-piperidine (ANPP).

Approved March 17, 2016

CHAPTER 71
(H.B. No. 336)

AN ACT

RELATING TO THE BOARD OF PHARMACY; AMENDING SECTION 54-1710, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 54-1713, IDAHO CODE, TO REMOVE OFFICER TERM LIMITS; AND AMENDING SECTION 54-1714, IDAHO CODE, TO INCREASE BOARD MEMBER COMPENSATION.

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

SECTION 1. That Section 54-1710, Idaho Code, be, and the same is hereby amended to read as follows:

54-1710. TERMS OF OFFICE. (1) Except as provided in subsection (2) of this section, members of the board of pharmacy shall be appointed for a term of five (5) years, except that members of the board who are appointed to fill vacancies which occur prior to the expiration of a former member's full term shall serve the unexpired portion of such term.

(2) The terms of the members of the board shall be staggered, so that the terms of no more than one (1) member shall expire in any year. ~~The present members of the board shall serve the balance of their terms. Any present board member appointed initially for a term of less than five (5) years shall be eligible to serve for two (2) additional full terms.~~

(3) No member of the board shall serve more than (2) consecutive full terms. The completion of the unexpired portion of a full term shall not constitute a full term for purposes of this section.

(4) An appointee to a full term on the board shall be appointed by the governor as provided in section 54-1709, Idaho Code, and be effective on July 1 of the year of appointment. Appointees to unexpired portions of full terms shall become members of the board upon appointment.

~~(5) In order to provide for the appointment of the public member of the board, the term expiring on June 30, 1978, is hereby designated as the term of the public member, who shall be appointed to a term commencing July 1, 1978.~~

SECTION 2. That Section 54-1713, Idaho Code, be, and the same is hereby amended to read as follows:

54-1713. ORGANIZATION OF THE BOARD. (1) The board of pharmacy shall elect from its members a chairman and such other officers as it deems appropriate and necessary to the conduct of its business. The chairman of the board of pharmacy shall preside at all meetings of the board and shall be responsible for the performance of all of the duties and functions of the board required or permitted by this act. Each additional officer elected by the board shall perform those duties normally associated with his position and such other duties assigned to him from time to time by the board.

(2) Officers elected by the board shall serve terms of one (1) year commencing with the day of their election, and ending upon election of their successors and shall serve no more than one (1) consecutive full term in each office to which they are elected.

(3) The board shall employ a licensed pharmacist who shall be an ex officio member of the board without vote to serve as a full-time employee of the board in the position of executive director. The executive director shall be responsible for the performance of the regular administrative functions of the board and such other duties as the board may direct.

SECTION 3. That Section 54-1714, Idaho Code, be, and the same is hereby amended to read as follows:

54-1714. COMPENSATION OF BOARD MEMBERS. (1) Each member of the board of pharmacy shall be compensated as provided by section 59-509 (np), Idaho Code, for each day on which the member is engaged in performance of the official duties of the board, and reimbursement for all expenses incurred in connection with the discharge of such official duties.

(2) The executive director of the board of pharmacy shall be a nonclassified officer and shall receive, as compensation, an annual salary payable on regular pay periods, the amount of which shall be determined by the board, and reimbursement for all expenses incurred in connection with performance of his official duties.

Approved March 17, 2016

CHAPTER 72
(H.B. No. 337)

AN ACT

RELATING TO PRESCRIPTIONS; AMENDING SECTION 37-2726, IDAHO CODE, TO PROVIDE THAT MEDICAL EXAMINERS OR CORONERS MAY HAVE ACCESS TO INFORMATION IN THE PRESCRIPTIONS DATABASE UNDER CERTAIN CIRCUMSTANCES.

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

(g) Upon a lawful order 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; and

(i) A medical examiner or coroner who is an officer of or employed by a state or local government, for determining a cause of death or for performing other duties authorized by law.

(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 17, 2016

CHAPTER 73
(H.B. No. 338)

AN ACT

RELATING TO LEGEND DRUGS; AMENDING SECTION 54-1734, IDAHO CODE, TO CLARIFY WHICH PERSONS MAY POSSESS LEGEND DRUGS.

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

SECTION 1. That Section 54-1734, Idaho Code, be, and the same is hereby amended to read as follows:

54-1734. POSSESSION OF LEGEND DRUGS. (1) The following persons or their agents or employees may possess legend drugs for 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) Prescribers;
- (c) Researchers who are prohibited from further distribution;
- (d) Hospitals and other institutional facilities;
- (e) Manufacturers and wholesalers;
- (f) Common carriers solely in the usual course of business of transporting prescription drugs;
- (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;
- (i) Midwives licensed pursuant to section 54-5507, Idaho Code, limited to formulary drugs consistent with rules promulgated by the Idaho board of midwifery; and
- (j) Home health nurses or agencies, or hospice agencies possessing emergency kits pursuant to rules of the board.

(2) Veterinary drug outlets or their agents or employees may possess legend drugs, excluding controlled substances, for 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.

Approved March 17, 2016

CHAPTER 74
(H.B. No. 339)

AN ACT

RELATING TO CONTROLLED SUBSTANCES; AMENDING SECTION 37-2720, IDAHO CODE, TO CLARIFY THAT CONTROLLED SUBSTANCES SHALL BE STORED IN ACCORDANCE WITH APPLICABLE LAW AND RULE.

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

SECTION 1. That Section 37-2720, Idaho Code, be, and the same is hereby amended to read as follows:

37-2720. ~~RECORDS OF REGISTRANTS -- DRUG STORAGE -- INVENTORY.~~ Persons registered under this chapter shall keep records, store controlled substances and maintain inventories in conformance with the recordkeeping, storage and inventory requirements of federal law and with any additional rules the board issues.

Approved March 17, 2016

CHAPTER 75
(H.B. No. 340)

AN ACT

RELATING TO CONTRACEPTIVES AND PROPHYLACTICS; REPEALING CHAPTER 8, TITLE 39, IDAHO CODE, REGARDING REGULATION OF CONTRACEPTIVES AND PROPHYLACTICS.

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

SECTION 1. That Chapter 8, Title 39, Idaho Code, be, and the same is hereby repealed.

Approved March 17, 2016

CHAPTER 76
(H.B. No. 341)

AN ACT

RELATING TO THE PATIENT FREEDOM OF INFORMATION ACT; AMENDING SECTION 54-4601, IDAHO CODE, TO REVISE LANGUAGE REGARDING LEGISLATIVE PURPOSE; AMENDING SECTION 54-4602, IDAHO CODE, TO REVISE DEFINITIONS; REPEALING SECTION 54-4603, IDAHO CODE, RELATING TO PATIENT ACCESS TO PROVIDER INFORMATION; AMENDING CHAPTER 46, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-4603, IDAHO CODE, TO PROVIDE FOR PUBLIC ACCESS TO CERTAIN INFORMATION; AND REPEALING SECTION 54-4604, IDAHO CODE, RELATING TO INFORMATION AND ACCESS TO PROVIDER PROFILE INFORMATION.

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

SECTION 1. That Section 54-4601, Idaho Code, be, and the same is hereby amended to read as follows:

~~54-4601. DECLARATION OF PURPOSE. In recognition of the importance of health care to all Idahoans, it is the intent of the legislature to provide patients the public with easily accessible profile information on specified licensed or registered health care professionals. By creating a database of individual profiles that the public may access, patients will be able to make more informed decisions about whom they wish to engage when in need of health care services. The database should include educational background and work history, disclosure of any final board disciplinary actions, criminal convictions, malpractice history, and other pertinent information as required by this chapter. The following licensed and registered professional health care providers are subject to this chapter: physicians and surgeons and osteopathic physicians and surgeons, physical therapists, dentists, podiatrists, chiropractors, optometric physicians, psychologists, physicians' assistants, nurse practitioners, and certified registered nurse anesthetists.~~

SECTION 2. That Section 54-4602, Idaho Code, be, and the same is hereby amended to read as follows:

~~54-4602. DEFINITIONS. As used in this chapter, the following terms have the following meanings:~~

~~(1) "Board" means the a professional licensing and or registration board, respectively, for each of the named established under title 54, Idaho Code, to regulate the practice of a providers.~~

~~(2) "Patient" means all past, current or future consumers of health care services.~~

~~(3) "Provider(s)" means the following a person licensed or registered professional health care providers: podiatrists licensed pursuant to chapter 6, title 54, Idaho Code; chiropractors licensed pursuant to chapter 7, title 54, Idaho Code; dentists licensed pursuant to chapter 9, title 54, Idaho Code; advanced practice professional nurses to include certified nurse-midwives, clinical nurse specialists, nurse practitioners and certified registered nurse anesthetists licensed or registered pursuant to chapter 14, title 54, Idaho Code; optometric physicians licensed pursuant to chapter 15, title 54, Idaho Code; physicians and surgeons and osteopathic physicians and surgeons, licensed pursuant to chapter 18, title 54, Idaho Code; physicians' assistants registered pursuant to chapter 18, title 54, Idaho Code; physical therapists registered pursuant to chapter 22, title 54, Idaho Code; and psychologists licensed pursuant to chapter 23, to deliver health care services pursuant to title 54, Idaho Code.~~

SECTION 3. That Section 54-4603, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Chapter 46, 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 54-4603, Idaho Code, and to read as follows:

54-4603. PUBLIC ACCESS TO PROVIDER INFORMATION. Each board must make the following information pertaining to each provider accessible to the public on the board's website:

(1) Licensure status;

(2) Description or documentation of any final board disciplinary actions that are considered to be public in accordance with the provisions of chapter 1, title 74, Idaho Code; and

(3) At the discretion of the board, other public information in accordance with the provisions of chapter 1, title 74, Idaho Code.

SECTION 5. That Section 54-4604, Idaho Code, be, and the same is hereby repealed.

Approved March 17, 2016

CHAPTER 77
(H.B. No. 346)

AN ACT
RELATING TO ALCOHOLIC BEVERAGES; AMENDING SECTION 23-907, IDAHO CODE, TO
PROVIDE A CORRECT CODE REFERENCE.

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

SECTION 1. That Section 23-907, Idaho Code, be, and the same is hereby amended to read as follows:

23-907. INVESTIGATION OF APPLICATIONS. Upon receipt of an application for a license under this act, accompanied by the necessary license fee, the director, within ninety (90) days thereafter, shall cause to be made a thorough investigation of all matters pertaining thereto. The investigation shall include a fingerprint-based criminal history check of the Idaho central criminal history database and the federal bureau of investigation criminal history database. Each person listed as an applicant on an initial application shall submit a full set of fingerprints and the fee to cover the cost of the criminal history background check for such person with the application. If the director shall determine that the contents of the application are true, that such applicant is qualified to receive a license, that his premises are suitable for the carrying on of the business, and that the requirements of this act and the rules promulgated by the director are met and complied with, he shall issue such license; otherwise the application shall be denied and the license fee, less the costs and expenses of investigation, returned to the applicant.

In making the investigation required by this section the director shall have the power to investigate and examine the books and records of the licensee and any person having a financial interest in any business to be conducted on the licensed premises, including, but not limited to, their bank accounts, returns filed under the Idaho Property Relief income tax Act, 1931, as amended, and any other sources of information deemed desirable by the director and not specifically prohibited by law.

Approved March 17, 2016

CHAPTER 78
(H.B. No. 357)

AN ACT

RELATING TO INCOME TAX CREDIT; AMENDING SECTION 63-3029A, IDAHO CODE, TO ALLOW A CERTAIN INCOME TAX CREDIT FOR A CHARITABLE CONTRIBUTION TO THE IDAHO STEM ACTION CENTER; REPEALING SECTION 63-3029A, IDAHO CODE, RELATING TO INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS AND LIMITATION; AMENDING SECTION 63-3029A, IDAHO CODE, AS AMENDED BY SECTION 5, CHAPTER 209, LAWS OF 2015, TO ALLOW A CERTAIN INCOME TAX CREDIT FOR A CHARITABLE CONTRIBUTION TO THE IDAHO STEM ACTION CENTER; 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 the Idaho STEM action center, 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 2. That Section 63-3029A, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 63-3029A, Idaho Code, as amended by Section 5, Chapter 209, Laws of 2015, 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 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 the Idaho STEM action center, 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 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, 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 4. The provisions of Sections 2 and 3 of this act shall be in full force and effect on and after January 1, 2020.

Approved March 17, 2016

CHAPTER 79
(H.B. No. 367)

AN ACT

RELATING TO MORTICIANS; AMENDING SECTION 54-1112, IDAHO CODE, TO REVISE LICENSE ELIGIBILITY PROVISIONS FOR RESIDENT TRAINEES AND TO PROVIDE THAT A SPECIFIED TIME LIMITATION INCLUDES ALL TIME PRACTICING AS A RESIDENT TRAINEE OR APPRENTICE FOR A MORTICIAN LICENSE, FUNERAL DIRECTOR LICENSE, OR BOTH.

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

SECTION 1. That Section 54-1112, Idaho Code, be, and the same is hereby amended to read as follows:

54-1112. REQUIREMENTS FOR RESIDENT TRAINEE LICENSE. The board shall issue to any person a resident trainee license to practice as a resident trainee and perform services at a particular establishment under the personal supervision of a specified licensed mortician within the state of Idaho who has complied with and fulfilled all of the following requirements:

(1) Has attained the age of eighteen (18) years, and is a resident of the state of Idaho.

(2) Is of good moral character.

(3) Has graduated from an accredited high school or has received an equivalent education as determined by the standards set and established by the state board of education.

(4) Has filed an application with the board as required by this chapter and paid the required filing fee. Provided further, that the board shall make the determination of qualifications of all applicants within a reasonable time after the filing of an application with the board. Provided further, no person shall be eligible to be licensed as a resident trainee ~~who has practiced as a resident trainee or apprentice~~ for a total cumulative period of more than ~~two~~ three (23) years in the state of Idaho unless approved by the board for good cause. The three (3) year limitation includes all time practicing as a resident trainee or apprentice for a mortician license, funeral director license, or both.

Approved March 17, 2016

CHAPTER 80
(H.B. No. 369)

AN ACT

RELATING TO FUNERAL AND CEMETERY MERCHANDISE AND SERVICES; AMENDING SECTION 54-1132, IDAHO CODE, TO PROVIDE THAT LICENSED MORTICIANS AND FUNERAL DIRECTORS SHALL DESIGNATE THE LICENSED FUNERAL ESTABLISHMENT RESPONSIBLE TO PROVIDE MERCHANDISE OR SERVICES UNDER PREARRANGEMENT SALES AND TO PROVIDE THAT THE LICENSED FUNERAL ESTABLISHMENT SHALL MAINTAIN ALL CONTRACTS AND DOCUMENTS ASSOCIATED WITH PREARRANGEMENT SALES.

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

SECTION 1. That Section 54-1132, Idaho Code, be, and the same is hereby amended to read as follows:

54-1132. CERTIFICATE OF AUTHORITY -- REQUIREMENTS -- DISPLAY OF CERTIFICATE. (1) No individual may sell a prepaid contract or provide funeral or cemetery merchandise or funeral or cemetery services pursuant to a prepaid contract without first obtaining a valid certificate of authority.

A certificate of authority for public cemeteries shall be issued by the governing board, city council or board of county commissioners having overall supervision and control of the cemetery. A certificate of authority for privately owned cemeteries shall be issued by the Idaho board of cemeteryans. A certificate of authority for persons licensed under chapter 11, title 54, Idaho Code, shall be issued by the state board of morticians.

(2) Any individual seeking to obtain a certificate of authority must submit a statement that includes the following:

- (a) The types of prepaid contracts to be written;
- (b) The name and address of the place of business of the individual; and
- (c) Any information deemed necessary by the certificating authority to show evidence of good moral character, a reputation for fair dealing in business matters, and the absence of a criminal record.

(3) Upon issuance, the certificate of authority shall be posted conspicuously in the holder's place of business.

(4) Any individual holding a certificate shall present a copy of the certificate to the purchaser before engaging in the activity of selling a prearrangement sales contract.

(5) A licensed mortician or licensed funeral director shall designate the licensed funeral establishment that shall be responsible to provide any funeral or cemetery merchandise or funeral or cemetery services under prearrangement sales.

(6) The licensed funeral establishment designated as responsible to provide the merchandise and services under a prearrangement sales contract shall maintain all contracts and documents associated with any prearrangement sales.

Approved March 17, 2016

CHAPTER 81
(H.B. No. 373)

AN ACT

RELATING TO LEGEND DRUGS; AMENDING SECTION 54-1761, IDAHO CODE, TO DEFINE TERMS; AND AMENDING SECTION 54-1762, IDAHO CODE, TO PROVIDE THAT QUALIFYING CHARITABLE CLINICS, REGIONAL BEHAVIORAL HEALTH CENTERS OR STATE CHARITABLE INSTITUTIONS MAY ACCEPT DONATIONS OF CERTAIN MEDICATIONS AND DISPENSE THOSE MEDICATIONS UNDER CERTAIN CIRCUMSTANCES.

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

SECTION 1. 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(37), 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) "Patient assistance program" means a program in which pharmaceutical manufacturers provide financial or medication assistance to low-income or medically indigent individuals.

(4) "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; or a designated regional behavioral health center as identified in chapter 31, title 39, Idaho Code; or a state charitable institution as defined in chapter 1, title 66, Idaho Code, acting in consultation with a pharmacist, physician, physician assistant or advanced practice professional nurse with prescriptive authority licensed in the state of Idaho.

SECTION 2. That Section 54-1762, Idaho Code, be, and the same is hereby amended to read as follows:

54-1762. IDAHO LEGEND DRUG DONATION ACT. (1) The board of pharmacy shall establish and implement a program through which legend drugs may be transferred from a nursing home qualified donor that elects to participate in the program for the purpose of distribution to a qualifying charitable clinic or center for donation to qualifying medically indigent patients.

(2) A qualifying charitable clinic or center shall establish procedures consistent with the Idaho legend drug donation act and rules promulgated thereunder.

(3) The acceptance and distribution of legend drugs for use in the program shall be subject to the following requirements:

(a) Donated drugs shall be in the manufacturer's original, sealed and tamper evident packaging, including drugs packaged in single unit doses when the outside packaging is open and the single unit dose packaging is intact, except for patient assistance program medications as described in subsection (8) of this section, which must be originally received by the qualifying designated regional behavioral health center or qualifying state charitable institution and remain under the control and storage of such center or institution. Drugs that have been previously dispensed by a pharmacy in unit dose packaging may be donated provided that the packaging is sealed, tamper evident and properly labeled.

(b) Only drugs that bear a clear and verifiable lot number and expiration date may be accepted and dispensed. However, drugs that bear an expiration date that is less than three (3) months from the date the drug is donated shall not be accepted and dispensed.

(c) Drugs and other substances provided in schedules II through V of article II, chapter 27, title 37, Idaho Code, shall not be accepted and shall not be dispensed.

(d) A drug shall not be accepted or dispensed if the person accepting or dispensing the drug has reason to believe that the drug has been adulterated.

(4) The following entities that are licensed or registered in the state of Idaho are qualified donors and may donate legend drugs to a qualifying charitable clinic or center:

- (a) Pharmacies;
- (b) Hospitals and nursing homes;
- (c) Drug manufacturers; and
- (d) Wholesale distributors; and
- (e) Prescriber drug outlets.

(5) The following entities may accept legend drugs:

- (a) A qualifying charitable clinic's or center's pharmacy; ~~or~~
- (b) A qualifying charitable clinic or center in consultation with a pharmacist licensed in the state of Idaho; or

(c) A qualifying charitable clinic or center designated as a regional behavioral health center or a state charitable institution acting in consultation with a pharmacist, physician, physician assistant or advanced practice professional nurse with prescriptive authority licensed in the state of Idaho.

(6) Any qualifying charitable clinic or center that participates in the program may dispense drugs donated under the Idaho legend drug donation act to persons who are medically indigent residents of the state of Idaho.

(7) Any qualifying charitable clinic or center dispensing legend drugs shall:

(a) Comply with the provisions of the Idaho legend drug donation act and all rules promulgated thereunder;

(b) Comply with all applicable federal and state laws related to the storage and distribution of drugs;

(c) Inspect all drugs prior to dispensing to determine that such drugs have not been adulterated; and

(d) Dispense drugs only pursuant to a valid prescription.

(8) A qualifying charitable clinic or center designated as a regional behavioral health center or state charitable institution may accept unused patient assistance program medications as donations for use and may dispense these medications if:

(a) The unused patient assistance program medication has remained under the control of the designated regional behavioral health center or state charitable institution;

(b) The storage of the medication complies with all applicable federal and state laws; and

(c) At least one (1) of the following applies:

(i) The original recipient of the patient assistance program medication no longer has a valid prescription order for the medication;

(ii) The patient assistance program medication was not picked up for the use of the original recipient; or

(iii) The original recipient of the patient assistance program medication is no longer receiving services from the regional behavioral health center or state charitable institution.

(9) Participation in the program is voluntary and nothing in the Idaho legend drug donation act shall require any person or entity to participate in the program.

(910) Nothing in the Idaho legend drug donation act shall prohibit or restrict the return of unused prescription drugs to the Idaho medicaid program pursuant to rules promulgated by the Idaho department of health and welfare.

Approved March 17, 2016

CHAPTER 82
(H.B. No. 374)

AN ACT

RELATING TO THE CONTROLLED SUBSTANCES PRESCRIPTIONS DATABASE; AMENDING SECTION 37-2726, IDAHO CODE, TO PROVIDE THAT DELEGATES SUPERVISED BY PRACTITIONERS OR PHARMACISTS MAY ACCESS THE DATABASE UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE THAT THE BOARD OF PHARMACY SHALL LIMIT THE NUMBER OF DELEGATES WITH SUCH ACCESS AND TO DEFINE A TERM.

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, or a delegate under the practitioner's supervision, 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, or a delegate under the pharmacist's supervision, 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 individual's designee upon production of a notarized release of information by that individual;
- (g) Upon a lawful order 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) The board shall limit to four (4) the number of delegates that a practitioner or pharmacist may permit to access the database under the practitioner or pharmacist's supervision.

(7) 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.

(78) 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.

(89) 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.

(910) 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.

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

(12) For purposes of this section, "delegate" means a nurse, medical or office assistant, or registered pharmacy technician who is designated by a supervising practitioner or pharmacist to access the database according to the provisions of this section and who must register with the state board of pharmacy for such access.

Approved March 17, 2016

CHAPTER 83
(H.B. No. 375)

AN ACT

RELATING TO THE HEALTH CARE TASK FORCE; AMENDING SECTION 56-1054, IDAHO CODE, TO REMOVE REFERENCES TO THE TASK FORCE; REPEALING SECTION 1, CHAPTER 280, LAWS OF 2006, RELATING TO THE MONITORING ROLE OF THE TASK FORCE; AND PROVIDING LEGISLATIVE INTENT.

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

SECTION 1. That Section 56-1054, Idaho Code, be, and the same is hereby amended to read as follows:

56-1054. HEALTH QUALITY PLANNING. (1) It is the intent of the legislature that the department of health and welfare ("the department") promote improved quality of care and improved health outcomes through investment in health information technology and in patient safety and quality initiatives in the state of Idaho.

(a) Coordinated implementation of health information technology in Idaho will establish widespread use of networked electronic health information or health records to allow quick, reliable and secure access to that information in order to promote patient safety and best practices in health care. This goal is consistent with the mission of the office of the national coordinator for health information technology, established by the president of the United States in 2004, to provide leadership for the development and nationwide implementation of an interoperable health information technology infrastructure to improve the quality and efficiency of health care and the ability of consumers to manage their care and safety.

(b) Coordinated implementation of statewide patient safety standards will identify uniform indicators of and standards for clinical quality and patient safety as well as uniform requirements for reporting provider achievement of those indicators and standards.

(2) There is hereby created and established within the department a health quality planning commission ("the commission").

(a) By May 1, 2006, and as needed after that date, the governor shall appoint eleven (11) voting members upon assurance of equitable geographic and rural representation, comprising members of the public and private sectors with expertise in health information technology and clinical quality and patient safety. The membership shall represent all major participants in the health care delivery and financing systems. A majority of the commission shall be health care providers or employees of health care providers. One (1) member shall be an Idaho resident representing the public interest. The commission chairperson shall be appointed by the director of the department.

(b) Members of the commission shall be appointed for a term of two (2) years. The term of office shall commence on July 1, 2006. As terms of commission members expire, the governor shall appoint each new member or reappointed member to a term of two (2) years in a manner that is consistent with subsection (a) of this section.

(c) The commission shall meet quarterly and at the call of the chairperson.

(d) Each member of the commission shall be compensated as provided by section 59-509(d), Idaho Code.

(e) Upon the occurrence or declaration of a vacancy in the membership of the commission, the department shall notify the represented entity of that fact in writing and the represented entity shall, within sixty (60) days thereafter, nominate at least one (1) and not more than three (3) persons to fill the vacancy and shall forward the nominations to the governor, who shall appoint from among the nominees a person to be a member of the commission to fill the vacancy. Such appointments shall be for a term of two (2) years.

(f) Members of the commission may be removed by the governor for substantial neglect of duty, gross misconduct in office, or the inability to discharge the duties described in this section, after written notice and opportunity for response.

(g) A majority of the members of the commission shall constitute a quorum for the transaction of all business and the carrying out of commission duties.

(3) The department may dedicate funding to the operations of the commission, subject to appropriation from the legislature. The department shall seek federal matching funds and additional private sector funding for commission operations.

(4) The commission shall perform the following duties related to health information technology planning:

- (a) Monitor the effectiveness of the Idaho health data exchange; and
- (b) Make recommendations to the legislature and the department on opportunities to improve the capabilities of health information technology in the state.

(5) The commission may use the information generated by the Idaho health data exchange and other data sources to promote health and patient safety planning. The commission may perform the following duties related to health quality and patient safety planning, provided that performance of these duties may include contracting with and supervising independent entities for the performance of some or all of these duties:

- (a) Analyze existing clinical quality assurance and patient safety standards and reporting;
- (b) Identify best practices in clinical quality assurance and patient safety standards and reporting;
- (c) Recommend a mechanism or mechanisms for the uniform adoption of certain best practices in clinical quality assurance and patient safety standards and reporting including, but not limited to, the creation of regulatory standards;
- (d) Monitor and report appropriate indicators of quality and patient safety;
- (e) Recommend a sustainable structure for leadership of ongoing clinical quality and patient safety reporting in Idaho;
- (f) Recommend a mechanism or mechanisms to promote public understanding of provider achievement of clinical quality and patient safety standards;
- (g) Provide quarterly progress reports to the director of the department and to the legislative health care task force. An annual report shall be due to the director, the legislative health care task force and

the senate and house of representatives health and welfare committees on June 30 of each year; and

(h) In regard to the commission's duties provided for in this section, the commission is directed to ensure that such duties are developed and implemented in such a manner and in such forms or formats as to result in health care data that will be readily understood by the citizens of this state.

SECTION 2. That Section 1, Chapter 280, Laws of 2006, be, and the same is hereby repealed.

SECTION 3. LEGISLATIVE INTENT. Based on the recommendation adopted by vote of the Health Care Task Force on October 13, 2015, and reported to the Legislative Council on November 6, 2015, it is the intent of the Legislature that any legislative business previously handled by the Health Care Task Force be assigned to the Senate and House of Representatives Health and Welfare committees or to an interim committee authorized by concurrent resolution and appointed by the Legislative Council.

Approved March 17, 2016

CHAPTER 84
(H.B. No. 377)

AN ACT

RELATING TO THE IDAHO GLOBAL ENTREPRENEURIAL MISSION PROGRAM; AMENDING SECTION 67-4725, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE REGARDING FUNDS FROM THE INNOVATION LICENSE PLATE; AMENDING SECTION 67-4726, IDAHO CODE, TO REVISE THE PROVISION REGARDING THE GOVERNOR'S DESIGNATION OF THE COUNCIL CHAIRMAN AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-4729, IDAHO CODE, TO CLARIFY THAT IDAHO-BASED INDUSTRY PARTNERS MAY RECEIVE WEIGHTED CONSIDERATION FOR GRANTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-4730, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 67-4731, IDAHO CODE, TO CLARIFY COMMERCIALIZATION REVENUE DISTRIBUTION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-4725, Idaho Code, be, and the same is hereby amended to read as follows:

67-4725. IDAHO GLOBAL ENTREPRENEURIAL MISSION GRANT FUND. There is hereby created in the state treasury the Idaho global entrepreneurial mission grant fund hereafter known as the IGEM grant fund. Moneys in the fund shall consist of funds received pursuant to ~~section 49-416C, Idaho Code,~~ from state appropriated general funds, commercialization revenues from state IGEM projects, grants, federal moneys, donations or funds from any other source. Moneys in the fund may be expended pursuant to appropriation. The fund balance in the fund may be appropriated annually to the department of commerce for the purpose of supporting the IGEM grants. The treasurer shall invest all idle moneys in the fund. Any interest earned on the investment of idle moneys shall be returned to the fund.

SECTION 2. That Section 67-4726, Idaho Code, be, and the same is hereby amended to read as follows:

67-4726. IDAHO GLOBAL ENTREPRENEURIAL MISSION COUNCIL -- APPOINTMENT OF MEMBERS -- QUALIFICATIONS. (1) The state of Idaho recognizes that the health and expansion of Idaho's future economy will depend upon taking full advantage of research and technology, and that Idaho has impressive resources for innovation-based growth, internationally recognized university research programs, globally competitive innovation companies and the Idaho national laboratory.

The IGEM council is hereby created to advise the department of commerce, the state board of education, state colleges and universities, and other state, local, federal and private sector agencies and organizations on innovation interests and potentials; to support the development and publishing of information on the condition and importance of innovation to the state's economy; to assist with the development and implementation of a state strategic plan for innovation; and to assist with the coordination of local, state and federal interests to increase the positive economic impact of the state's innovation resources.

(2) The council shall be appointed by and serve at the pleasure of the governor. Membership of the council shall include individuals knowledgeable and experienced in innovation issues. The council shall include: four (4) representatives from the private sector who have expertise in the transfer and commercialization of technology, the director of the department of commerce, one (1) member of the state board of education, one (1) representative from the Idaho national laboratory or the center for advanced energy studies, and one (1) representative each from Boise state university, Idaho state university, and the university of Idaho. The president pro tempore of the senate and the speaker of the house of representatives, or their designees, shall serve as members of the council. The governor shall designate a chairman from the council's private-sector membership (unless otherwise specified at the governor's discretion) and the council shall designate such other officers from its membership as it deems necessary. The chairman, the director of the department of commerce and the state board of education member of the council shall serve as the executive committee of the council. The council shall be staffed and supported by the department of commerce. Members of the council who are not state employees shall be compensated for actual and necessary expenses as provided by section 59-509 (b), Idaho Code.

SECTION 3. That Section 67-4729, Idaho Code, be, and the same is hereby amended to read as follows:

67-4729. DEPARTMENT OF COMMERCE AND IGEM COUNCIL RULES AND RESPONSIBILITIES. (1) The department of commerce in conjunction with the IGEM council shall:

(a) Ensure that IGEM funds appropriated to the department of commerce and received for research and development at the universities and for the technology outreach program are used appropriately, effectively and efficiently in accordance with the intent of the legislature;

(b) In conjunction with the IGEM research institutions and the private sector, evaluate best practices utilized by successful technology transfer programs and make recommendations to the IGEM research institutions for transaction and legal structures that incorporate those best practices;

(c) Enhance technology transfer and commercialization of research and technologies developed at the universities to create high-quality jobs and new industries in the private sector in Idaho;

(d) In conjunction with the university research departments and the private sector, develop a standardized process for the transfer of

intellectual property from all IGEM-funded research projects and for the IGEM grant awards;

(e) Establish economic development objectives for each IGEM state-funded project;

(f) Establish rules for the IGEM grant program, including weighted consideration for Idaho-based entities industry partners and a matching requirement, monetary or otherwise, for recipients of the awards;

(g) Verify that the IGEM project is being enhanced by research grants and that it is meeting the economic development objectives of the department of commerce and the IGEM council;

(h) Monitor all research plans that are part of the project at the research universities to determine that appropriations are being spent in accordance with legislative intent and to measure the benefit and return to the state;

(i) Develop methods and incentives to encourage investment in and contributions to the IGEM project from the private sector; and

(j) Annually report and make recommendations to:

(i) The governor;

(ii) The joint finance-appropriations committee;

(iii) The house and senate commerce and human resource committees; and

(iv) The office of the state board of education.

(2) The department of commerce and the Idaho global entrepreneurial mission council may:

(a) In addition to moneys received by it from the legislature, receive contributions from any source in the form of money, property, labor or other things of value for the project;

(b) Subject to any restrictions imposed by the donation, appropriations or bond authorizations, allocate moneys received by it among the universities, the technology outreach program and technology transfer offices to support commercialization and technology transfer to the private sector; or

(c) Enter into agreements necessary to obtain private equity investment in the project.

SECTION 4. That Section 67-4730, Idaho Code, be, and the same is hereby amended to read as follows:

67-4730. IDAHO GLOBAL ENTREPRENEURIAL MISSION (IGEM) RESEARCH. As funding becomes available from the legislature or other sources, and subject to any restrictions or directions established by the legislature, the state board of education and/or the department of commerce may allocate moneys to Boise state university, the university of Idaho, and Idaho state university to provide funding for research teams or individual university research faculty to conduct IGEM-project designated research.

SECTION 5. That Section 67-4731, Idaho Code, be, and the same is hereby amended to read as follows:

67-4731. COMMERCIALIZATION REVENUE DISTRIBUTION. For all Commercialization revenue shall be limited to revenue generated through the commercialization of university intellectual property rights in a work authored or an invention conceived or first reduced to practice in the performance of an IGEM grant award. For commercialization revenue generated through the IGEM university research initiative and by IGEM-funded research faculty, the following is the priority of revenue distribution:

(a₁) The revenue shall first reimburse the direct project costs associated with commercialization expenses generated by any of the three (3) universities.

~~(b2) The uUniversity research faculty, or IGEM university research teams shall be provided the prenegotiated portion of the commercialization revenue. The prenegotiated portion shall be determined by the universities collectively for those faculty involved in IGEM-funded research and individually by the employing university in all other situations staff or students engaged in the performance of an IGEM grant award shall receive a portion of the commercialization revenue, consistent with the university intellectual property policies applicable to such faculty, staff or student.~~

(e3) Remaining funds shall be distributed according to the following priorities:

~~(ia) Up to tTwenty-five percent (25%) of the total remaining revenues shall reimburse the general fund for the current year expenses that were paid to support the IGEM research faculty teams or the IGEM research faculty that develop the commercialized product until IGEM grant funds paid for the IGEM project are reimbursed.~~

~~(iib) Up to fFive percent (5%) of the remaining revenues may shall be deposited into the IGEM grant funds as defined in section 67-4725, Idaho Code, to support future IGEM grants. The amount shall be agreed to by the university/universities and the council prior to distribution.~~

~~(iiic) The remaining funds shall be distributed to Boise state university, the university of Idaho, and Idaho state university, with the moneys distributed based on the participation of the universities in the research project that generated the commercialization revenue.~~

Approved March 17, 2016

CHAPTER 85
(H.B. No. 383)

AN ACT

RELATING TO THE AQUACULTURE COMMISSION; REPEALING CHAPTER 44, TITLE 22, IDAHO CODE, RELATING TO THE AQUACULTURE COMMISSION; AMENDING SECTION 67-450D, IDAHO CODE, TO REMOVE REFERENCE TO THE AQUACULTURE COMMISSION; PROVIDING AN EFFECTIVE DATE AND PROVIDING FOR THE TRANSFER OF CERTAIN MONEYS.

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

SECTION 1. That Chapter 44, Title 22, Idaho Code, be, and the same is hereby repealed.

SECTION 2. 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 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 3. This act shall be in full force and effect on and after July 1, 2016. At the end of fiscal year 2016, the State Controller shall transfer any unexpended and unencumbered balances in the Idaho Aquaculture Commission Account to the Idaho State Department of Agriculture's Seminars and Publications Fund.

Approved March 17, 2016

CHAPTER 86
(H.B. No. 386)

AN ACT

RELATING TO THE PRODUCTION EXEMPTION; AMENDING SECTION 63-3622D, IDAHO CODE, TO REVISE A TERM; AND DECLARING AN EMERGENCY.

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, 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 subsection (a)(1), (2), (3) and (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 subsection (a) (1), (2), (3) and (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 subsection (a) (1), (2), (3) and (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 and removal from 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) Tangible personal property used in any activities other than the actual manufacturing, processing, mining, farming, fabricating, hunting or fishing operations, such as office equipment and supplies, and equipment and supplies used in selling or distributing activities.

(2) Property used in transportation activities.

(3) 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.

(4) 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.

(5) 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.

(6) Motor vehicles and aircraft.

(7) 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.

(8) 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.

Approved March 17, 2016

CHAPTER 87
(H.B. No. 391)

AN ACT

RELATING TO ASSESSMENT RATIOS AND THE DETERMINATION OF ADJUSTED MARKET VALUE FOR ASSESSMENT PURPOSES FOR SCHOOL DISTRICTS; AMENDING SECTION 63-315, IDAHO CODE, TO REMOVE THE REQUIREMENT THAT A CERTAIN REPORT BE SUBMITTED TO THE STATE DEPARTMENT OF EDUCATION.

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

SECTION 1. That Section 63-315, Idaho Code, be, and the same is hereby amended to read as follows:

63-315. ASSESSMENT RATIOS AND THE DETERMINATION OF ADJUSTED MARKET VALUE FOR ASSESSMENT PURPOSES FOR SCHOOL DISTRICTS. (1) The provisions of this section shall apply only to charter districts levying a maintenance and operation levy in the prior calendar year. For the purpose of this section, adjusted market value for assessment purposes shall be the adjusted market value for assessment purposes of all property assessed for property tax purposes for the year referred to in sections 33-802 and 33-1002, Idaho Code.

(2) The state tax commission shall conduct a ratio study to annually ascertain the ratio between the assessed value and the market value for assessment purposes of all property assessed for property tax purposes. Said ratio study shall be conducted in accordance with nationally accepted procedures. From the ratio so ascertained the state tax commission shall compute the adjusted market value of all property assessed for property tax purposes.

(3) The ratio shall be computed in each school district and applied to the market value for assessment purposes within each school district.

(4) Sales used in determining the ratio required by this section shall be arm's length, market value property sales occurring in the year beginning on October 1 of the year preceding the year for which the adjusted market value is to be determined. The state tax commission may, at its discretion, modify the sales period when doing so produces provably better repre-

representativeness of the actual ratio in any school district. The state tax commission may also add independently conducted appraisals when the state tax commission believes that this procedure will improve the representativeness and reliability of the ratio.

(5) Whenever the state tax commission is unable to determine with reasonable statistical certainty that the assessed value within any school district differs from the market value for assessment purposes, the state tax commission may certify the assessed value to be the adjusted market value of any school district.

(6) The state tax commission shall certify the adjusted market value of each school district to the state department of education and each county auditor no later than the first Monday in April each year. The state tax commission shall prepare a report indicating procedures used in computing the adjusted market value and showing statistical measures computed in the ratio study. ~~This report shall be submitted to the state department of education at the same time as the certification of adjusted market value.~~ The report of the state tax commission shall also be made available for public inspection in the office of the county auditor.

(7) The state tax commission shall promulgate rules to implement the ratio study described in this section.

Approved March 17, 2016

CHAPTER 88
(H.B. No. 392)

AN ACT

RELATING TO THE YOUTH EDUCATION ACCOUNT; REPEALING CHAPTER 47, TITLE 33, IDAHO CODE, RELATING TO THE YOUTH EDUCATION ACCOUNT.

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

SECTION 1. That Chapter 47, Title 33, Idaho Code, be, and the same is hereby repealed.

Approved March 17, 2016

CHAPTER 89
(H.B. No. 405)

AN ACT

RELATING TO FIRE PROTECTION DISTRICTS; AMENDING SECTION 31-1408, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE RESIDENCE REQUIREMENTS OF FIRE PROTECTION COMMISSIONERS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 31-1409, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE RESIDENCE REQUIREMENTS OF FIRE PROTECTION COMMISSIONERS AND TO CLARIFY VERBIAGE; AMENDING SECTION 31-1410, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING RESIDENCE REQUIREMENTS FOR FIRE PROTECTION COMMISSIONERS, TO REVISE VERBIAGE REGARDING TERMS IN OFFICE, TO REMOVE CERTAIN SUBDISTRICT PROVISIONS, TO PROVIDE REQUIREMENTS REGARDING THE BOARD OF FIRE PROTECTION COMMISSIONERS' RESPONSIBILITY TO REVISE SUBDISTRICTS, TO PROVIDE FOR NOTICE OF REVISED SUBDISTRICTS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING CHAPTER 14, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-1410B, IDAHO CODE, TO ESTABLISH A PROCESS TO DECREASE THE SIZE OF A FIRE PROTECTION BOARD AND TO PROVIDE FOR TERMS OF OFFICE.

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

SECTION 1. That Section 31-1408, Idaho Code, be, and the same is hereby amended to read as follows:

31-1408. FIRE PROTECTION BOARD -- APPOINTMENT OF COMMISSIONERS -- OATH. (1) There shall be three (3) fire protection commissioners in each district, who shall constitute the fire protection board. The first fire protection commissioners of such fire protection district shall be appointed by the governor. The certificate of such appointment shall be made in triplicate; one (1) certificate shall be filed in the office of the county recorder of the county, one (1) with the clerk of the board of county commissioners, and one (1) with the assessor and tax collector of the county. Every fire protection commissioner and appointed officer shall take and subscribe the official oath, which oath shall be filed in the office of the board of fire protection commissioners. If thirty-three percent (33%) of the ~~property and/~~ area or population in the fire protection district is situated in two (2) or more counties, not more than two (2) of the appointed fire protection district commissioners shall be from the same county, ~~unless pursuant to section 31-1410A, Idaho Code, the board is comprised of five (5) members, in which event not more than three (3) of the commissioners shall be from the same county.~~

(2) The oath of office of fire protection commissioners and appointed officers shall be taken before the secretary or the president of the board of the fire protection district at the first regularly scheduled board meeting in January succeeding each election. Provided however, in the event of an inability to appear for the taking of the oath, a duly elected fire protection commissioner may be sworn in and may subscribe to the oath wherever he may be, provided he appear before an officer duly authorized to administer oaths, and provided further, that any person who is in any branch of the armed forces of the United States of America, may appear before any person qualified to administer oaths as prescribed in section 55-705, Idaho Code, and may take and subscribe the oath of office as provided for in section 59-401, Idaho Code, and the oath of office shall have the same force and effect as though it were taken before the secretary or the president of the fire protection district pursuant to this subsection.

SECTION 2. That Section 31-1409, Idaho Code, be, and the same is hereby amended to read as follows:

31-1409. RESIDENCE QUALIFICATIONS OF COMMISSIONERS -- TERM OF OFFICE -- VACANCIES. (1) At the meeting of the board of county commissioners at which the fire protection district is declared organized, as provided by section 31-1407, Idaho Code, the county commissioners shall divide the fire protection district into three (3) subdivisions, as nearly equal in population, area and mileage as practicable, to be known as fire protection commissioners subdistricts one, two and three. Not more than one (1) of said the fire protection district commissioners shall be an elector resident of the same fire protection subdistrict, except that any commissioner appointed by the governor under section 31-1408, Idaho Code, shall not be disqualified from the completion of the initial term for which the commissioner was appointed because of the subdistrict in which the commissioner resides. The first commissioners appointed by the governor shall serve until the next fire protection district election, at which time their successors shall be elected. The term of office for fire protection commissioners shall commence on the second Monday of January succeeding each general election. Commissioners appointed and elected must be electors resident residing within the fire protection district for at least one (1) year immediately preceding their election.

(2) Any fire protection commissioner vacancy occurring, other than by the expiration of the term of office, shall be filled by the fire protection board. If a duly elected or appointed fire protection commissioner resigns, withdraws, becomes disqualified, refuses or becomes otherwise unable to perform the duties of office for longer than ninety (90) days, the board, on satisfactory proof of the vacancy, shall declare the office vacant. The board shall fill any vacancies within sixty (60) days of learning of the vacancy. When a vacancy occurs, the board shall direct the secretary to cause a notice of the vacancy to be published in at least one (1) issue of a newspaper of general circulation within the district. The notice shall include the date and time of the meeting when the board will vote to fill the vacancy, and the deadline for qualified elector residents interested in being appointed to the position to submit a written request for appointment to the board. Should the board fail to agree on an individual to fill the vacancy, it shall select the individual by a coin toss to be conducted at a fire protection board meeting. Candidates for the vacancy shall be invited by the board to attend the meeting and observe the coin toss. The candidate who wins the coin toss shall be appointed to fill the vacancy.

SECTION 3. That Section 31-1410, Idaho Code, be, and the same is hereby amended to read as follows:

31-1410. ELECTION OF COMMISSIONERS -- RESIDENT QUALIFICATIONS OF COMMISSIONERS -- REVISING SUBDISTRICTS -- TERM OF OFFICE. (1) On the first Tuesday following the first Monday of November, of the next odd-numbered year, following the organization of a fire protection district, three (3) fire protection district commissioners shall be elected. Not more than one (1) commissioner shall be a resident of the same fire protection commissioner subdistrict. Every odd-numbered year thereafter, an election shall be held for the election of fire protection district commissioners as described in this section. For commissioners whose term in offices expires ~~in 2012 and~~ in any even-numbered year, such commissioners shall remain in office until the next election in an odd-numbered year. The county clerk shall have power to make such regulations for the conduct of such election as are consistent with the statutory provisions of chapter 14, title 34, Idaho Code. ~~At their meeting next preceding such election, the board of fire district commissioners shall divide the district into three (3) subdistricts as~~

nearly equal in population, area and mileage as practicable, to be known as fire protection commissioners subdistricts one, two and three. Thereafter,

(2) The board of fire protection district commissioners may revise subdistricts when it they deems it necessary due to significant shifts in population. The board of fire protection district commissioners shall revise subdistricts upon any annexation of territory into the district in accordance with sections 31-1410A, 31-1410B and 31-1412(6), Idaho Code, and, in any case, within six (6) months following the end of each decennial United States census reporting year so as to equalize the population, area and mileage between the subdistricts as nearly as practicable. Provided however, of the commissioners comprising the board, not more than one (1) commissioner shall be an elector resident of the same fire protection commissioners subdistrict. The revision of subdistricts shall not disqualify any elected commissioner from the completion of the term for which he or she has been duly elected. Notice of revised fire protection commissioner subdistricts shall be provided to the county clerk of the county or counties in which the changes occur by means of a resolution that includes a map depicting the revised subdistrict boundaries.

(3) At the first election following organization of a fire protection district, the commissioner from fire protection subdistrict one shall be elected to a term of two (2) years, and the commissioners from subdistricts two and three shall be elected to a term of four (4) years; thereafter, the term of office of all commissioners shall be four (4) years. Such elections and all other elections held under this law, shall be held in conformity with the general laws of the state including chapter 14, title 34, Idaho Code.

(24) A fire protection district whose terms and elections were established by prior law shall convert to the election of commissioners as provided in ~~subsection (1) of this section.~~

(35) In any election for fire protection district commissioner, if after the deadline for filing a declaration of intent as a write-in candidate, it appears that only one (1) qualified candidate has been nominated for a subdistrict to be filled, it shall not be necessary for the candidate of that subdistrict to stand for election, and the board of the fire protection district shall declare such candidate elected as commissioner, and the secretary of the district shall immediately make and deliver to such person a certificate of election.

(6) The results of any election for fire protection district commissioner shall be certified by the county clerk of the county or counties of the district and the results reported to the fire protection district.

SECTION 4. That Chapter 14, Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 31-1410B, Idaho Code, and to read as follows:

31-1410B. **DECISION TO DECREASE THE SIZE OF THE BOARD.** (1) Any fire protection board consisting of five (5) members may, by a four-fifths (4/5) majority vote of all of the board members, elect to decrease the size of the board to three (3) members.

(2) If the board of fire protection commissioners elects to reduce the board to three (3) members, the existing board members shall subdivide the district into three (3) subdivisions as nearly equal in population, area and mileage as practicable to be known as subdistricts one, two and three. Notice of revised fire protection commissioner subdistricts shall be provided to the county clerk of the county or counties in which the changes occur by means of a resolution that includes a map depicting the revised subdistrict boundaries.

(3) At the first election following the decision of the board of fire protection commissioners to reduce the board from five (5) to three (3) members, three (3) commissioners shall be elected. The commissioner from fire

protection subdistrict one shall be elected to a term of two (2) years and the commissioners from subdistricts two and three shall be elected to a term of four (4) years. Thereafter, the term of all commissioners shall be four (4) years.

(4) For commissioners whose office expires in any even-numbered year, such commissioners shall remain in office until the next election in an odd-numbered year.

Approved March 17, 2016

CHAPTER 90
(H.B. No. 417)

AN ACT

RELATING TO THE IDAHO RURAL DEVELOPMENT PARTNERSHIP ACT; AMENDING SECTION 67-9003, IDAHO CODE, TO DEFINE A TERM AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 67-9005, IDAHO CODE, TO REVISE RESPONSIBILITIES OF THE PARTNERSHIP AND TO PROVIDE FOR AN ANNUAL REPORT TO THE GOVERNOR; AMENDING SECTION 67-9006, IDAHO CODE, TO REVISE BOARD OF DIRECTOR MEMBERSHIP PROVISIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-9007, IDAHO CODE, TO REVISE COCHAIR APPOINTMENT PROVISIONS AND TO PROVIDE THAT THE COCHAIRS SHALL MANAGE THE PARTNERSHIP BUDGET AND STAFF SUBJECT TO APPROVAL BY THE BOARD OF DIRECTORS; AND AMENDING SECTION 67-9008, IDAHO CODE, TO REMOVE A PROVISION THAT THE EXECUTIVE DIRECTOR BE AN EXEMPT, FULL-TIME POSITION WITHIN A DEPARTMENT OF THE EXECUTIVE BRANCH.

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

SECTION 1. That Section 67-9003, Idaho Code, be, and the same is hereby amended to read as follows:

67-9003. DEFINITIONS. As used in this chapter:

(1) "Agency with rural responsibilities" means any public entity of the state of Idaho that:

- (a) Implements a provision of law targeted at rural areas; or
- (b) Administers a program that has a significant impact on rural areas.

(2) "Community" means a group of people linked by common policy, common social interests and interaction with one another.

(3) "National rural development partnership" means the organization created by the national rural development partnership act (7 U.S.C. 2008m).

(34) "Partnership" means the Idaho rural development partnership established by section 67-9004, Idaho Code.

(45) "Rural area" means:

- (a) All the territory of the state of Idaho that is not within the boundary of any standard metropolitan statistical area as defined by the United States office of management and budget;
- (b) All territory within any standard metropolitan statistical area described in subsection ~~(4)~~ paragraph (a) of this subsection within a census tract having a population density of less than twenty (20) persons per square mile, as determined according to the most recent census of the United States as of any date; and
- (c) Such areas as the partnership may identify as rural.

SECTION 2. That Section 67-9005, Idaho Code, be, and the same is hereby amended to read as follows:

67-9005. RESPONSIBILITIES. The partnership's responsibilities shall be to:

- (1) Assess community and economic conditions of rural Idaho;
- (2) Advise the governor and the legislature on public policy and strategies to ~~improve~~ identify the quality of life community and economic development opportunities in rural Idaho;
- (3) Act as a clearinghouse of information and as a referral center on rural programs and policies;
- (4) Conduct outreach to rural communities and facilitate communication between rural residents and public and private organizations that provide services to rural communities;
- (5) Identify organizations, authorities and resources to address various aspects of rural development;
- (6) Serve as a nonpartisan forum for identifying and understanding rural issues from all perspectives;
- (7) Improve intergovernmental coordination, private and public cooperation, and to seek out opportunities for new partnerships to achieve rural development goals within existing governmental and community structures;
- (8) Foster coordinated approaches to rural development that support local initiatives, with an imperative not to usurp the individual missions of any member organizations or duplicate effort;
- (9) Seek solutions to unnecessary impediments to rural development, ~~first within Idaho and then through the national rural development partnership;~~ and
- (10) Work cooperatively and seek solutions to impediments with the national rural development partnership and other state rural development councils; and
- (11) Submit an annual report to the governor outlining the work and accomplishments of the partnership.

SECTION 3. That Section 67-9006, Idaho Code, be, and the same is hereby amended to read as follows:

67-9006. BOARD OF DIRECTORS. (1) The partnership shall be managed by a board of directors that shall include the following members:

- (a) A representative ~~from the executive office of~~ appointed by the governor;
- (b) The directors from not more than five (5) agencies with ~~rural responsibilities, these being, unless otherwise seated by the balance of the board of directors, the Idaho departments of agriculture, commerce, environmental quality, labor, and transportation~~ as appointed by the governor;
- (c) The director of the cooperative extension service in the state of Idaho;
- (d) Representatives from the following federal agencies: the United States department of agriculture's rural development, farm service agency and forest service, the United States department of the interior's bureau of land management, the United States department of commerce's economic development administration, the United States environmental protection agency, and the United States department of housing and urban development;
- (e) Four (4) state legislators consisting of one (1) member appointed by the president pro tempore of the senate, one (1) member appointed by the minority leader of the senate, one (1) member appointed by the speaker of the house of representatives and one (1) member appointed by the minority leader of the house of representatives;

(f) A representative chosen by each of the federally recognized Indian tribes in the state of Idaho;

(g) Four (4) representatives from organizations of local government in the state of Idaho, as appointed by the governor, one (1) each representing cities, counties, economic development agencies, and resource conservation and development organizations;

(h) Two (2) representatives, as appointed by the governor, from for-profit business organizations, to include agribusiness and other businesses operating with special emphasis on rural areas of the state of Idaho;

(i) A representative of the principal contractor for the United States department of energy's Idaho national laboratory; and

(j) Five (5) rural leaders chosen by the governor representing private entrepreneurs, chambers of commerce, nonprofit and community-based organizations, living in rural Idaho and representing a geographic balance across the state.

(2) Nonvoting, ad hoc members may be included on the board to assist with specific issues and projects as necessary.

(3) Except for appointments by the governor under ~~subsection (1) (j)~~ of this section, members of the board of directors shall serve at the pleasure of the organization or entity the member represents. Board members appointed under subsection (1) (j) of this section shall serve four (4) year terms concurrent with the governor's term, ~~though lagging behind by three (3) months the governor's term.~~

(4) The duties of the board of directors shall be to:

(a) Elect a cochair as provided in section 67-9007, Idaho Code;

(b) ~~To~~ appoint and employ, and at its pleasure discharge, an executive director and to prescribe the duties and fix the compensation of the executive director; and

(c) ~~To~~ establish offices, to incur expenses, to enter into contracts and to create such liabilities as may be reasonable for the proper administration and enforcement of this chapter.

(5) The board of directors shall hold a meeting at least annually. A majority of the members of the board of directors shall constitute a quorum.

SECTION 4. That Section 67-9007, Idaho Code, be, and the same is hereby amended to read as follows:

67-9007. COCHAIRS. (1) The board of directors of the partnership shall have two (2) cochairs, one (1) elected by the partnership's board of directors from among the board's membership, and the other appointed by the governor ~~from among the state agency directors appointed pursuant to subsection (1) (b) of section 67-9006, Idaho Code.~~ The cochair elected by the board of directors shall serve a two (2) year term, and may be reelected until a total of four (4) consecutive years have been served, following which that individual will be disqualified for election to the position of cochair until at least one (1) term of office has intervened.

(2) The duties of the cochairs shall be to:

(a) Set operating policies; and

(b) Manage the partnership budget and staff, including the hiring of an executive director, subject to approval by the board of directors.

SECTION 5. That Section 67-9008, Idaho Code, be, and the same is hereby amended to read as follows:

67-9008. EXECUTIVE DIRECTOR. The executive director of the partnership shall:

(1) ~~Be an exempt, full-time position within a department of the executive branch of Idaho state government as designated by the governor;~~

(2) Manage the day-to-day operations of the partnership as directed by the board of directors and the cochairs;

(32) Be a person with the skills necessary to manage a diverse public organization effectively and with broad experience in building and sustaining networks and partnerships; and shall be hired through an open and competitive process when a vacancy occurs, after a broad, statewide advertising campaign without any preselection;

(43) Hire an assistant, and such temporary or part-time employees as may be necessary to achieve the partnership's purposes, provided approved by the cochairs of the board of directors and the availability of funding.

Approved March 17, 2016

CHAPTER 91
(H.B. No. 428)

AN ACT

RELATING TO THE COLLEGE SAVINGS PROGRAM; AMENDING SECTION 33-5410, IDAHO CODE, TO REVISE THE TREATMENT OF UNCLAIMED COLLEGE SAVINGS PROGRAM ACCOUNTS AND TO AUTHORIZE THE MANAGEMENT OF UNCLAIMED COLLEGE SAVINGS PROGRAM ACCOUNTS BY THE COLLEGE SAVINGS PROGRAM BOARD UNDER CERTAIN CONDITIONS.

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

SECTION 1. That Section 33-5410, Idaho Code, be, and the same is hereby amended to read as follows:

33-5410. UNCLAIMED ACCOUNTS. (1) Except as set forth in this section, unclaimed accounts shall be subject to the provisions of section 14-50612(1), Idaho Code.

(2) The date upon which the account owner is deemed to have last communicated that the owner is currently aware of his interest in the account shall not occur prior to the eighteenth birthday of the designated beneficiary.

(3) Upon receipt of a certificate of exemption from the state treasurer or his authorized agent or employee, the board may assume the responsibilities of the state treasurer under chapter 5, title 14, Idaho Code. Under a certificate of exemption, the board:

(a) Shall locate unclaimed accounts and refund the same to its rightful owner according to the provisions of chapter 5, title 14, Idaho Code, and the terms of the certificate of exemption.

(b) Shall retain the unclaimed account under the terms and provisions of the program.

(c) May maintain the investments selected by the account owner or establish an investment policy for all unclaimed accounts. The owner and designated beneficiary of an unclaimed account shall have no claim against the state or any agency or instrumentality of this state for retention of the account owner's investment selection or for compliance with an investment policy for unclaimed accounts.

(4) In the event the board fails to comply with the requirements of this section, the state treasurer may revoke the certificate of exemption, and the board shall transfer all unclaimed accounts and records to the state treasurer as required by chapter 5, title 14, Idaho Code.

Approved March 17, 2016

CHAPTER 92
(H.B. No. 440)

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-342, IDAHO CODE, TO SPECIFY COMPLIANCE WITH A CERTAIN CODE SECTION; AND AMENDING SECTION 41-2839, IDAHO CODE, TO PROVIDE AN EXCEPTION TO THE REQUIREMENT THAT EVERY DOMESTIC INSURER MUST HAVE AND MAINTAIN ITS PRINCIPAL PLACE OF BUSINESS AND HOME OFFICE IN THIS STATE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 41-342, Idaho Code, be, and the same is hereby amended to read as follows:

41-342. REDOMESTICATION AS A DOMESTIC INSURER -- CONVERSION TO FOREIGN INSURER. (1) Any insurer which is organized under the laws of any other state and is admitted to do business in this state for the purpose of writing insurance may become a domestic insurer by complying with all of the requirements of law relative to the organization and licensing of a domestic insurer of the same type and by designating its principal place of business at a place in Idaho in compliance with section 41-2839, Idaho Code. Such a domestic insurer shall be entitled to a certificate of redomestication and a certificate of authority to transact business in this state, and shall have the same rights and obligations as other domestic insurers of this state.

(2) Any domestic insurer may, upon the approval of the director, transfer its domicile to any other state in which it is admitted to transact the business of insurance. Upon such a transfer, the insurer shall cease to be a domestic insurer. If the insurer is otherwise qualified, the director shall admit the insurer to this state as a foreign insurer. The director shall approve any such proposed transfer unless he determines that such a transfer is not in the interest of the policyholders of the insurer in this state. After the director has approved the transfer, the director shall provide written notice to the secretary of state that the insurer has transferred its domicile to another state, stating the effective date of the transfer and the state to which the insurer has transferred its domicile. Upon receipt of the written notice from the director and the payment of the fee required in section 30-1-122, Idaho Code, the secretary of state shall file the notice and, on the effective date of the transfer, terminate the existence of the insurance company as a domestic corporation.

(3) The certificate of authority, appointment of statutory agent and licenses, policy forms, rates, authorizations and other filings and approvals in existence at the time an insurer admitted to transact insurance in this state transfers its corporate domicile to this or any other state, continue in effect upon the transfer of corporate domicile. All rates and outstanding policies of any transferring insurer shall remain in full force and effect and policies need not be endorsed as to the new domicile unless so ordered by the director. Every transferring insurer shall either file new policy forms for use in this state with the director on or before the effective date of the transfer, or use existing policy forms in this state with appropriate endorsements as allowed by, and under such conditions as may be approved by the director. Every transferring insurer shall notify the director of the proposed transfer, and shall promptly file any resulting amendments to its corporate documents required to be filed with the director.

SECTION 2. That Section 41-2839, Idaho Code, be, and the same is hereby amended to read as follows:

41-2839. HOME OFFICE -- RECORDS -- ASSETS -- PENALTY FOR UNLAWFUL REMOVAL. (1) Except as provided in subsection (5) of this section, eEvery domestic insurer shall have and maintain its principal place of business and home office in this state, and shall keep therein accurate and complete accounts and records of its assets, transactions, and affairs in accordance with the usual and accepted principles and practices of insurance accounting and record-keeping recordkeeping as applicable to the kinds of insurance transacted by the insurer.

(2) Every domestic insurer shall have and maintain its assets in this state, except as to:

(a) Real property and personal property appurtenant thereto lawfully owned by the insurer and located outside this state, ~~and;~~

(b) Such property of the insurer as may be customary, necessary, and convenient to enable and facilitate the operation of its branch offices and "regional home offices" located outside this state as referred to in subsection (4) below; and

(c) Such assets of any insurer that has redomesticated to this state pursuant to section 41-342, Idaho Code, and satisfies the conditions of subsection (5) of this section.

(3) Removal of all or a material part of the records or assets of a domestic insurer from this state except pursuant to a plan of merger or consolidation approved by the director under this code, or for such reasonable purposes and periods of time as may be approved by the director in writing in advance of such removal, or concealment of such records or assets or such material part thereof from the director, is prohibited. Any person who removes or attempts to remove such records or assets or such material part thereof from the home office or other place of business or of safekeeping of the insurer in this state with the intent to remove the same from this state, or who conceals or attempts to conceal the same from the director, in violation of this section, shall upon conviction thereof be guilty of a felony, punishable by a fine of not more than ten thousand dollars (\$10,000), or by imprisonment in the penitentiary for not more than five (5) years, or by both such fine and imprisonment in the discretion of the court. Upon any removal or attempted removal of such records or assets or upon retention of such records or assets or material part thereof outside this state, beyond the period therefor specified in the director's consent under which the records were so removed thereat, or upon concealment of or attempt to conceal records or assets in violation of this section, the director may institute delinquency proceedings against the insurer pursuant to the provisions of chapter 33 ~~of this code, title 41, Idaho Code.~~

(4) This section shall not be deemed to prohibit or prevent an insurer from:

(a) Establishing and maintaining branch offices or "regional home offices" in other states where necessary or convenient to the transaction of its business and keeping therein the detailed records and assets customary and necessary for the servicing of its insurance in force and affairs in the territory served by such an office, as long as such records and assets are made readily available at such office for examination by the director at his request.

(b) Having, depositing or transmitting funds and assets of the insurer in or to jurisdictions outside of this state required by the law of such jurisdiction or as reasonably and customarily required in the regular course of its business.

(c) Using custodial arrangements for the holding of book-entry securities owned by the insurer, either in or outside of this state, and either segregated from or commingled with securities owned by others, if the

arrangements conform to rules adopted by the director for safeguarding the assets and facilitating the director's examination of insurers using such custodial arrangements.

(5) A stock insurer that has redomesticated to this state pursuant to section 41-342, Idaho Code, is not required to maintain its home office and principal place of business in this state and is not required to maintain its assets in this state so long as:

(a) The majority of the stock of the insurer is owned directly or indirectly by a mutual insurance holding company that maintains its home office and principal place of business in this state;

(b) The insurer can and shall produce the accounts and records of the insurer in their entirety in this state upon request from the director in a form satisfactory to the director;

(c) Material administrative and financial activities of the insurer are conducted in this state, initial evidence of which is submitted by the insurer under oath to the director as part of the insurer's application for a certificate of authority or certificate of redomestication under section 41-342, Idaho Code;

(d) At least one (1) officer and one (1) director of the insurer are residents of this state. The officer and director contemplated in this paragraph shall not be the same person; and

(e) In addition to those examination expenses payable by the insurer under section 41-228, Idaho Code, the insurer pays all examination expenses that exceed the costs and fees necessary to examine an insurer with its principal place of business and home office in this state including, without limitation, actual travel expenses, reasonable living expense allowance, and compensation of employees, agents and contractors of the department, as determined and approved by the director.

Approved March 17, 2016

CHAPTER 93
(H.B. No. 455)

AN ACT

RELATING TO THE APPLE COMMISSION; AMENDING SECTION 22-3601, IDAHO CODE, TO DEFINE A TERM; AMENDING SECTION 22-3603, IDAHO CODE, TO REVISE TERMINOLOGY AND TO REVISE DEFINITIONS; REPEALING SECTION 22-3604, IDAHO CODE, REGARDING THE IDAHO APPLE COMMISSION; AMENDING CHAPTER 36, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-3604, IDAHO CODE, TO PROVIDE FOR THE IDAHO APPLE COMMISSION; AMENDING SECTION 22-3705, IDAHO CODE, TO REVISE POWERS AND DUTIES OF THE COMMISSION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 22-3601, Idaho Code, be, and the same is hereby amended to read as follows:

22-3601. 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; to prevent fraudulent practices; to provide the means for the development of markets; production research; and new product development and promotion of the apple industry. "Apples" as used in this chapter means Idaho apples.

SECTION 2. That Section 22-3603, Idaho Code, be, and the same is hereby amended to read as follows:

22-3603. DEFINITIONS. As used in this act chapter, unless the context requires otherwise:

- (1) "Commission" means the Idaho apple commission.
- (2) "Grower" means any landowner personally engaged in growing apples, a tenant personally engaged in growing apples, or both the owner and the 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 apples.
- (3) "Dealer" means any person, partnership, association, corporation, cooperative or other business units and devices who first handles, packs, ships, buys or sells apples, or who acts as sales or purchasing agent, broker or factor of apples.
- (4) "Ship" means to load apples 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 units and devices to whom and every place to which apples are delivered for drying, freezing, dehydrating, canning, pressing, powdering, extracting, cooking and for use in producing a product or manufacturing a manufactured article.
- (6) "District No. 1" 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 and Bingham.
- (7) "District No. 2" shall consist of the following counties: Gem, Boise, Valley, Custer, and Lemhi.
- ~~(8) "District No. 3" shall consist of the following counties: Payette, Washington, Adams, Idaho, Lewis, Nez Perce, Clearwater, Latah, Benewah, Shoshone, Kootenai, Bonner and Boundary.~~
- (98) "Person" means any partnership, association, corporation, cooperative or other business units or devices.

SECTION 3. That Section 22-3604, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Chapter 36, 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 22-3604, Idaho Code, and to read as follows:

22-3604. 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, with one (1) grower member representing district no. 1, one (1) grower member representing district no. 2, and one (1) grower member being a grower member at large, 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 held by the commission members immediately prior to the effective date of this act, hereinafter referred to as current commissioners, shall expire and be filled on the following schedule:

- District no. 1 shall be held by the current grower commissioner for district no. 1, whose term shall expire on July 1, 2016;
- District no. 2 shall be held by the current grower commissioner for district no. 2, whose term shall expire on July 1, 2017;
- The term of the grower member at large shall expire on July 1, 2018, and shall be held by the current grower commissioner for district no. 3, as it existed prior to the effective date of this act;

The term of one (1) dealer member at large shall be held by the current dealer member at large whose term shall expire on July 1, 2016; and
The term of the second dealer member at large shall be held by the current dealer member at large whose term shall expire on July 1, 2018.

(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 at the discretion of the commission. 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 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 22-3605, Idaho Code, be, and the same is hereby amended to read as follows:

22-3605. POWERS AND DUTIES. The Idaho apple commission shall have, but is not limited to, the following powers and duties:

- (1) To elect a chairman and such other officers as it deems advisable.
- (2) To appoint and employ, and at its pleasure discharge, all necessary agents, employees and professional personnel and other personnel, including experts in agriculture and the publicizing of the products thereof, and to prescribe their duties and fix their compensation.
- (3) To establish offices and incur expense and enter into contracts and to create such liabilities as may be reasonable for the proper administration and enforcement of this chapter.
- (4) To ~~find~~ aid in finding new markets for Idaho apples and apple products.
- (5) To give, publicize and promulgate reliable information showing the value of apples and apple 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 apples and apple products.
- (7) To investigate and participate in studies of the problems peculiar to the growers of apples 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 apples and to protect the apple 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 government, engaged in work or activity similar to the work and ac-

tivities 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 act 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 apples.

(14) To keep an accurate record of all of 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 and orders for the exercise of its powers and performance of its duties under this act 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 17, 2016

CHAPTER 94
(H.B. No. 431)

AN ACT

RELATING TO EXEMPTIONS FROM TAXATION; AMENDING SECTION 63-602G, IDAHO CODE, TO REVISE PROVISIONS REGARDING CERTAIN PROPERTY EXEMPT FROM TAXATION.

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

SECTION 1. 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, For each tax year, the first seventy-five one hundred thousand dollars (\$75100,000) 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 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.

Approved March 17, 2016

CHAPTER 95
(S.B. No. 1370)

AN ACT

APPROPRIATING MONEYS TO IDAHO PUBLIC TELEVISION FOR FISCAL YEAR 2017; 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 Idaho Public Television, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2016, through June 30, 2017:

	FOR	FOR	FOR	
	PERSONNEL	OPERATING	CAPITAL	
	COSTS	EXPENDITURES	OUTLAY	TOTAL
FROM:				
General				
Fund	\$1,108,900	\$1,077,400	\$835,800	\$3,022,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
Miscellaneous Revenue				
Fund	3,442,500	2,460,000	370,000	6,272,500
TOTAL	\$4,551,400	\$3,537,400	\$1,205,800	\$9,294,600

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, Idaho Public Television is authorized no more than sixty-four and forty-eight hundredths (64.48) full-time equivalent positions at any point during the period July 1, 2016, through June 30, 2017, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 22, 2016

CHAPTER 96
(S.B. No. 1369)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE MILITARY DIVISION FOR THE FEDERAL/STATE AGREEMENTS PROGRAM FOR FISCAL YEAR 2016; APPROPRIATING MONEYS TO THE MILITARY DIVISION FOR FISCAL YEAR 2017; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; 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 2, Chapter 163, Laws of 2015, and any other appropriation provided for by law, there is hereby appropriated \$3,500,000 from the Federal Grant Fund to the Military Division for the Federal/State Agreements Program, to be expended for operating expenditures, for the period July 1, 2015, through June 30, 2016. This additional funding is for capital improvements, construction, and maintenance on facilities maintained through the Army Operations and Maintenance Cooperative Agreement.

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, 2016, through June 30, 2017:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MILITARY MANAGEMENT:					
FROM:					
General					
Fund	\$2,055,000	\$314,700	\$206,500	\$300,000	\$2,876,200
Indirect Cost Recovery					
Fund	348,900	20,700			369,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Miscellaneous Revenue					
Fund		115,900			115,900
Administration and Accounting Services					
Fund	<u>2,361,800</u>	<u>936,500</u>	<u>615,900</u>	<u>0</u>	<u>3,914,200</u>
TOTAL	\$4,765,700	\$1,387,800	\$822,400	\$300,000	\$7,275,900
 II. FEDERAL/STATE AGREEMENTS:					
FROM:					
General					
Fund	\$805,000	\$1,050,600			\$1,855,600
Miscellaneous Revenue					
Fund	1,502,500	435,200			1,937,700
Federal Grant					
Fund	<u>18,905,000</u>	<u>14,423,500</u>			<u>33,328,500</u>
TOTAL	\$21,212,500	\$15,909,300			\$37,121,800
 III. BUREAU OF HOMELAND SECURITY:					
FROM:					
General					
Fund	\$1,719,500	\$204,200	\$6,000		\$1,929,700
Federal Grant					
Fund	<u>2,519,900</u>	<u>5,900,500</u>	<u>0</u>	<u>\$14,937,900</u>	<u>23,358,300</u>
TOTAL	\$4,239,400	\$6,104,700	\$6,000	\$14,937,900	\$25,288,000
 GRAND TOTAL	 \$30,217,600	 \$23,401,800	 \$828,400	 \$15,237,900	 \$69,685,700

SECTION 3. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Military Division is authorized no more than three hundred nineteen and eight-tenths (319.8) full-time equivalent positions at any point during the period July 1, 2016, through June 30, 2017, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. CONTINUOUS APPROPRIATION. The Military Division is hereby granted continuous appropriation authority for the Bureau of Homeland Security's Miscellaneous Revenue Fund for the period July 1, 2016, through June 30, 2017, for the purpose of covering incurred costs arising out of hazardous substance incidents.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved March 22, 2016

CHAPTER 97
(S.B. No. 1326)

AN ACT

RELATING TO SUICIDE PREVENTION; AMENDING SECTION 56-1003, IDAHO CODE, TO GRANT CERTAIN AUTHORITY TO THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND WELFARE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 56-1003, Idaho Code, be, and the same is hereby amended to read as follows:

56-1003. POWERS AND DUTIES OF THE DIRECTOR. The director shall have the following powers and duties:

(1) All of the powers and duties of the department of public health, the department of health, the board of health and all nonenvironmental protection duties of the department of health and welfare are hereby vested to the director of the department of health and welfare. Provided however, that oversight of the department and rulemaking and hearing functions relating to public health and licensure and certification standards shall be vested in the board of health and welfare. Except when the authority is vested in the board of health and welfare under law, the director shall have all such powers and duties as may have been or could have been exercised by his predecessors in law, including the authority to adopt, promulgate, and enforce rules, and shall be the successor in law to all contractual obligations entered into by predecessors in law. All rulemaking proceedings and hearings of the director shall be governed by the provisions of chapter 52, title 67, Idaho Code.

(2) The director shall, pursuant and subject to the provisions of the Idaho Code, and the provisions of this chapter, formulate and recommend to the board rules, codes and standards, as may be necessary to deal with problems related to personal health, and licensure and certification requirements pertinent thereto, which shall, upon adoption by the board, have the force of law relating to any purpose which may be necessary and feasible for enforcing the provisions of this chapter including, but not limited to, the maintenance and protection of personal health. Any such rule or standard may be of general application throughout the state or may be limited as to times, places, circumstances or conditions in order to make due allowance for variations therein.

(3) The director, under the rules, codes or standards adopted by him, shall have the general supervision of the promotion and protection of the life, health and mental health of the people of this state. The powers and duties of the director shall include, but not be limited to, the following:

(a) The issuance of licenses and permits as prescribed by law and by the rules of the board;

(b) The supervision and administration of laboratories and the supervision and administration of standards of tests for environmental pollution, chemical analyses and communicable diseases. The director may require that laboratories operated by any city, county, institution, person, firm or corporation for health or environmental purposes conform to standards set by the board of health and welfare and the board of environmental quality;

(c) The supervision and administration of a mental health program, which shall include services for the evaluation, screening, custody and treatment of the mentally ill and those persons suffering from a mental defect, or mental defects, and services for the prevention of suicide;

(d) The enforcement of minimum standards of health, safety and sanitation for all public swimming pools within the state;

(e) The supervision and administration of the various schools, hospitals and institutions that were the responsibility of the board of health;

(f) The supervision and administration of services dealing with the problems of alcoholism including, but not limited to, the care and rehabilitation of persons suffering from alcoholism;

(g) The establishment of liaison with other governmental departments, agencies and boards in order to effectively assist other governmental entities with the planning for the control of or abatement of health problems. All of the rules and standards adopted by the board shall apply to state institutions;

(h) The supervision and administration of an emergency medical service program including, but not limited to, assisting other governmental agencies and local governmental units, in providing first aid emergency medical services and for transportation of the sick and injured;

(i) The supervision and administration of administrative units whose responsibility shall be to assist and encourage counties, cities, other governmental units, and industries in the control of and/or abatement of health problems; and

(j) The enforcement of all laws, rules, codes and standards relating to health.

(4) The director, when so designated by the governor, shall have the power to apply for, receive on behalf of the state, and utilize any federal aid, grants, gifts, gratuities, or moneys made available through the federal government.

(5) The director shall have the power to enter into and make contracts and agreements with any public agencies or municipal corporations for facilities, land, and equipment when such use will have a beneficial, recreational, or therapeutic effect or be in the best interest in carrying out the duties imposed upon the department.

The director shall also have the power to enter into contracts for the expenditure of state matching funds for local purposes. This subsection will constitute the authority for public agencies or municipal corporations to enter into such contracts and expend money for the purposes delineated in such contracts.

(6) The director is authorized to adopt an official seal to be used on appropriate occasions, in connection with the functions of the department or the board, and such seal shall be judicially noticed. Copies of any books, records, papers and other documents in the department shall be admitted in evidence equally with the originals thereof when authenticated under such seal.

(7) The director, under rules adopted by the board of health and welfare, shall have the power to impose and enforce orders of isolation and quarantine to protect the public from the spread of infectious or communicable diseases or from contamination from chemical or biological agents, whether naturally occurring or propagated by criminal or terrorist act.

(a) An order of isolation or quarantine issued pursuant to this section shall be a final agency action for purposes of judicial review. However, this shall not prevent the director from reconsidering, amending or withdrawing the order. Judicial review of orders of isolation or quarantine shall be de novo. The court may affirm, reverse or modify the order and shall affirm the order if it appears by a preponderance of the evidence that the order is reasonably necessary to protect the public from a substantial and immediate danger of the spread of an infectious or communicable disease or from contamination by a chemical or biological agent.

(b) If the director has reasonable cause to believe a chemical or biological agent has been released in an identifiable place, including a building or structure, an order of quarantine may be imposed to prevent the movement of persons into or out of that place, for a limited period of time, for the purpose of determining whether a person or persons at that place have been contaminated with a chemical or biological agent which may create a substantial and immediate danger to the public.

(c) Any person who violates an order of isolation or quarantine shall be guilty of a misdemeanor.

(8) The director shall develop safeguards necessary to ensure the security of nonpublic personal information in the department's possession and to prevent undue disclosure of such information. The director shall establish a process to authenticate requests made by a person, entity or jurisdiction arising under the 2007 Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance. In the event the department becomes aware of any improper disclosure, the director shall take all actions required under section 28-51-105, Idaho Code.

Approved March 22, 2016

CHAPTER 98
(S.B. No. 1336)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1602, IDAHO CODE, TO PROVIDE THAT THE APPLICABILITY OF CERTAIN PROVISIONS TO CERTAIN PUPILS IS GOVERNED BY SUCH PUPIL'S INDIVIDUALIZED EDUCATION PLAN AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-1602, Idaho Code, be, and the same is hereby amended to read as follows:

33-1602. UNITED STATES CONSTITUTION -- NATIONAL FLAG AND COLORS -- NATIONAL ANTHEM -- "AMERICA" -- CITIZENSHIP -- CIVICS TEST. (1) Instruction in the Constitution of the United States shall be given in all elementary and secondary schools. The state board of education shall adopt such materials as may be deemed necessary for said purpose, and shall also determine the grades in which such instruction shall be given.

(2) Instruction in the proper use, display and history of and respect for the American flag and the national colors shall be given in all elementary and secondary schools. Such instruction shall include the pledge of allegiance to the flag, the words and music of the national anthem, and of "America."

(3) Every school board of trustees shall cause the United States flag to be displayed in every classroom during the school hours of each school day.

(4) Every public school shall offer the pledge of allegiance or the national anthem in grades one (1) through twelve (12) at the beginning of each school day.

(5) No pupil shall be compelled, against the pupil's objections or those of the pupil's parent or guardian, to recite the pledge of allegiance or to sing the national anthem.

(6) Instruction in citizenship shall be given in all elementary and secondary schools. Citizenship instruction shall include lessons on the role of a citizen in a constitutional republic, how laws are made, how officials are elected, and the importance of voting and of participating in government. Such instruction shall also include the importance of respect-

ing and obeying statutes which are validly and lawfully enacted by the Idaho legislature and the congress of the United States.

(7) Starting with the 2016-2017 school year, all secondary pupils must show they have met the state civics and government standards for such instruction through the successful completion of the civics test or alternate path established by the local school district or charter school that shows the student has met the standards. Assessment of standards shall be included as part of the course at the secondary level. A school district or public charter school shall document on the pupil's transcript that the pupil has passed the civics test pursuant to this subsection. The school district or governing body of the charter school may determine the method and manner in which to administer the civics test. A pupil may take the civics test, in whole or in part, at any time after enrolling in grade 7 and may repeat the test as often as necessary to pass the test. The applicability of this subsection to a pupil who receives special education services shall be governed by such pupil's individualized education plan. For the purposes of this subsection, "civics test" means the one hundred (100) questions used by officers of the United States citizenship and immigration services as a basis for selecting the questions posed to applicants for naturalization, in order that the applicants can demonstrate a knowledge and understanding of the fundamentals of United States history and the principles and form of United States government, as required by 8 U.S.C. section 1423. The state board of education may promulgate rules implementing the provisions of this subsection.

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

Approved March 22, 2016

CHAPTER 99
(S.B. No. 1365)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO STATE LOTTERY FOR FISCAL YEAR 2017; 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, 2016, through June 30, 2017:

FOR:

Personnel Costs	\$3,180,600
Operating Expenditures	2,635,400
Capital Outlay	<u>86,600</u>
TOTAL	\$5,902,600

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, 2016, through June 30, 2017, 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 22, 2016

CHAPTER 100
(S.B. No. 1366)

AN ACT

APPROPRIATING MONEYS TO THE STATE LIQUOR DIVISION FOR FISCAL YEAR 2017; 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, 2016, through June 30, 2017:

FOR:

Personnel Costs	\$12,975,900
Operating Expenditures	5,820,400
Capital Outlay	<u>874,600</u>
TOTAL	\$19,670,900

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the State Liquor Division is authorized no more than two hundred twenty-two (222) full-time equivalent positions at any point during the period July 1, 2016, through June 30, 2017, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 22, 2016

CHAPTER 101
(S.B. No. 1371)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF FINANCE FOR FISCAL YEAR 2017; 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, 2016, through June 30, 2017:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
State Regulatory				
Fund	\$6,323,700	\$1,673,100	\$73,500	\$8,070,300
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	\$6,373,700	\$1,723,100	\$73,500	\$8,170,300

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, 2016, through June 30, 2017, 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 22, 2016

CHAPTER 102
(S.B. No. 1372)

AN ACT
APPROPRIATING MONEYS TO THE REGULATORY BOARDS FOR FISCAL YEAR 2017; AND LIM-
ITING 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, 2016, through June 30, 2017:

	FOR	FOR	FOR	FOR	
	PERSONNEL	OPERATING	CAPITAL	TRUSTEE AND	
	COSTS	EXPENDITURES	OUTLAY	BENEFIT	TOTAL
				PAYMENTS	
I. BOARD OF ACCOUNTANCY:					
FROM:					
State Regulatory					
Fund	\$296,000	\$253,800	\$4,400		\$554,200
II. BOARD OF PROF. ENGINEERS & LAND SURVEYORS:					
FROM:					
State Regulatory					
Fund	\$408,600	\$234,700	\$2,000		\$645,300
III. BUREAU OF OCCUPATIONAL LICENSES:					
FROM:					
State Regulatory					
Fund	\$2,615,800	\$1,389,000	\$10,100	\$52,500	\$4,067,400
IV. OUTFITTERS AND GUIDES LICENSING BOARD:					
FROM:					
State Regulatory					
Fund	\$422,700	\$203,300			\$626,000
V. REAL ESTATE COMMISSION:					
FROM:					
State Regulatory					
Fund	\$1,036,500	\$654,400			\$1,690,900
GRAND TOTAL	\$4,779,600	\$2,735,200	\$16,500	\$52,500	\$7,583,800

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, 2016, through June 30, 2017, 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-nine (39)
- Outfitters and Guides Licensing Board Six (6)
- Real Estate Commission Fifteen (15)

Approved March 22, 2016

CHAPTER 103
(S.B. No. 1344)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-104, IDAHO CODE, TO REVISE PROVISIONS REGARDING CONTROLLED HUNTS; AND AMENDING CHAPTER 1, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-104A, IDAHO CODE, TO PROVIDE FOR CONTRACTS WITH PRIVATE ENTITIES TO CONDUCT DRAWINGS FOR CONTROLLED HUNT PERMITS AND TAGS, TO PROVIDE A PROCEDURE AND TO PROVIDE FOR RULEMAKING.

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

SECTION 1. That Section 36-104, Idaho Code, be, and the same is hereby amended to read as follows:

36-104. GENERAL POWERS AND DUTIES OF COMMISSION. (a) Organization -- Meetings. The members of the commission shall annually meet at their offices and organize by electing from their membership a chairman, who shall hold office for a period of one (1) year, or until his successor has been duly elected. In addition to the regular annual meeting, to be held in January, said commission shall hold other regular quarterly meetings each year at such places within the state as the commission shall select for the transaction of business. Special meetings may be called at any time and place by the chairman or a majority of the members of the commission. Notice of the time, place and purpose of any and all special meetings shall be given by the secretary to each member of the commission prior to said meeting.

(b) Authorization for Commission Powers and Duties. For the purpose of administering the policy as declared in section 36-103, Idaho Code, the commission is hereby authorized and empowered to:

1. Investigate and find facts regarding the status of the state's wildlife populations in order to give effect to the policy of the state hereinbefore announced.
2. Hold hearings for the purpose of hearing testimony, considering evidence and determining the facts as to when the supply of any of the wildlife in this state will be injuriously affected by the taking thereof, or for the purpose of determining when an open season may be declared for the taking of wildlife. Whenever said commission determines that the supply of any particular species of wildlife is being, or will be, during any particular period of time, injuriously affected by depletion by permitting the same to be taken, or if it should find a longer or different season, or different bag limit should be adopted for the better protection thereof, or if it finds that an open season may be declared without endangering the supply thereof, then it shall make a rule or proclamation embodying its findings in respect to when, under what circumstances, in which localities, by what means, what sex, and in what amounts and numbers the wildlife of this state may be taken.
3. Whenever it finds it necessary for the preservation, protection, or management of any wildlife of this state, by reason of any act of God or any other sudden or unexpected emergency, declare by temporary rule or proclamation the existence of such necessity, and the cause thereof, and prescribe and designate all affected areas or streams, and close the same to hunting, angling or trapping, or impose such restrictions and conditions upon hunting, angling or trapping as said commission shall find to be necessary. Every such temporary rule shall be made in accordance with the provisions of chapter 52, title 67, Idaho Code.

4. At any time it shall deem necessary for the proper management of wildlife on any game preserve in the state of Idaho, declare an open season in any game preserve as it deems appropriate.

5. (A) Upon notice to the public, held cause to be held pursuant to the provisions of section 36-104A, Idaho Code, a public drawing giving to license holders, under the wildlife laws of this state, the privilege of drawing by lot for a controlled hunt permit or tag authorizing the person to whom issued to hunt, kill, or attempt to kill any species of wild animals or birds designated by the commission under such rules as it shall prescribe.

(B) The commission may, under rules or proclamations as it may prescribe, authorize the director to issue additional controlled hunt permits or tags and collect fees therefor authorizing landowners of property valuable for habitat or propagation purposes of deer, elk, antelope, bear or turkey, or the landowner's designated agent(s) to hunt deer, elk, antelope, bear or turkey in controlled hunts containing the eligible property owned by those landowners in units where any permits or tags for deer, elk, antelope, bear or turkey are limited.

(C) A nonrefundable fee as specified in section 36-416, Idaho Code, shall be charged each applicant for a controlled hunt permit or tag. Successful applicants for controlled hunt permits or tags shall be charged the fee as specified in section 36-416, Idaho Code. Additionally, a fee may be charged for telephone and credit card orders in accordance with subsection (e)11. of section 36-106, Idaho Code. The department shall include a checkoff form to allow applicants to designate one dollar (\$1.00) of such non-refundable application fee for transmittal to the reward fund of citizens against poaching, inc., an Idaho nonprofit corporation. The net proceeds from the nonrefundable fee shall be deposited in the fish and game account and none of the net proceeds shall be used to purchase lands.

(D) The commission may by rule establish procedures relating to the application for the purchase of controlled hunt bonus or preference points by sportsmen and the fee for such application shall be as specified in section 36-416, Idaho Code.

6. Adopt rules pertaining to the importation, exportation, release, sale, possession or transportation into, within or from the state of Idaho of any species of live, native or exotic wildlife or any eggs thereof.

7. Acquire for and on behalf of the state of Idaho, by purchase, condemnation, lease, agreement, gift, or other device, lands or waters suitable for the purposes hereinafter enumerated in this paragraph. Whenever the commission proposes to purchase a tract of land in excess of fifteen (15) acres, the commission shall notify the board of county commissioners of the county where this land is located of the intended action. The board of county commissioners shall have ten (10) days after official notification to notify the commission whether or not they desire the commission to hold a public hearing on the intended purchase in the county. The commission shall give serious consideration to all public input received at the public hearing before making a final decision on the proposed acquisition. Following any land purchase, the fish and game commission shall provide, upon request by the board of county commissioners, within one hundred twenty (120) days, a management plan for the area purchased that would address noxious weed control, fencing, water management and other important issues raised during the public hearing. When considering purchasing lands pursuant to this paragraph, the commission shall first make a good faith attempt to obtain a conservation easement, as provided in chapter 21, title 55, Idaho Code,

before it may begin proceedings to purchase, condemn or otherwise acquire such lands. If the attempt to acquire a conservation easement is unsuccessful and the commission then purchases, condemns or otherwise acquires the lands, the commission shall record in writing the reasons why the attempt at acquiring the conservation easement was unsuccessful and then file the same in its records and in a report to the joint finance-appropriations committee. The commission shall develop, operate, and maintain the lands, waters or conservation easements for said purposes, which are hereby declared a public use:

(A) For fish hatcheries, nursery ponds, or game animal or game bird farms;

(B) For game, bird, fish or fur-bearing animal restoration, propagation or protection;

(C) For public hunting, fishing or trapping areas to provide places where the public may fish, hunt, or trap in accordance with the provisions of law, or the regulation of the commission;

(D) To extend and consolidate by exchange, lands or waters suitable for the above purposes.

8. Enter into cooperative agreements with educational institutions, and state, federal, or other agencies to promote wildlife research and to train students for wildlife management.

9. Enter into cooperative agreements with state and federal agencies, municipalities, corporations, organized groups of landowners, associations, and individuals for the development of wildlife rearing, propagating, management, protection and demonstration projects.

10. In the event owners or lawful possessors of land have restricted the operation of motor-propelled vehicles upon their land, the commission, upon consultation with all other potentially affected landowners, and having held a public hearing, if requested by not less than ten (10) residents of any county in which the land is located, may enter into cooperative agreements with those owners or possessors to enforce those restrictions when the restrictions protect wildlife or wildlife habitat. Provided, however, the commission shall not enter into such agreements for lands which either lie outside or are not adjacent to any adjoining the proclaimed boundaries of the national forests in Idaho.

(A) The landowners, with the assistance of the department, shall cause notice of the restrictions, including the effective date thereof, to be posted on the main traveled roads entering the areas to which the restrictions apply. Provided, however, that nothing in this subsection shall allow the unlawful posting of signs or other information on or adjacent to public highways as defined in subsection (5) of section 40-109, Idaho Code.

(B) Nothing in this section authorizes the establishment of any restrictions that impede normal forest or range management operations.

(C) No person shall violate such restrictions on the use of motor-propelled vehicles or tear down or lay down any fencing or gates enclosing such a restricted area or remove, mutilate, damage or destroy any notices, signs or markers giving notice of such restrictions. The commission may promulgate rules to administer the restrictions and cooperative agreements addressed in this subsection.

11. Capture, propagate, transport, buy, sell or exchange any species of wildlife needed for propagation or stocking purposes, or to exercise control of undesirable species.

12. Adopt rules pertaining to the application for, issuance of and administration of a lifetime license certificate system.

13. Adopt rules governing the application and issuance of permits for and administration of fishing contests on waters under the jurisdiction

of the state. The fee for each permit shall be as provided for in section 36-416, Idaho Code.

14. Adopt rules governing the application for and issuance of licenses by telephone and other electronic methods.

15. Enter into agreements with cities, counties, recreation districts or other political subdivisions for the lease of lands or waters, in accordance with all other applicable laws, including applicable provisions of titles 42 and 43, Idaho Code, to cost-effectively provide recreational opportunities for taxpayers or residents of those local governments or political subdivisions.

16. Adopt rules governing a mentored hunting program.

(c) Limitation on Powers. Nothing in this title shall be construed to authorize the commission to change any penalty prescribed by law for a violation of its provisions, or to change the amount of license fees or the authority conferred by licenses prescribed by law.

(d) Organization of Work. The commission shall organize the department, in accordance with the provisions of title 67, Idaho Code, into administrative units as may be necessary to efficiently administer said department. All employees of the department except the director shall be selected and appointed by the director in conformance with the provisions of chapter 53, title 67, Idaho Code.

SECTION 2. That Chapter 1, Title 36, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 36-104A, Idaho Code, and to read as follows:

36-104A. DRAWINGS TO AWARD CONTROLLED HUNT PERMITS -- TAGS -- CONTRACT WITH PRIVATE ENTITY -- PROCEDURE -- RULES. (1) The department shall contract with a private entity to conduct drawings for controlled hunt permits or tags as established by the commission. The drawings must be conducted using a computer program that awards permits and tags based on a random order of selection. The department shall solicit bids for the contract pursuant to Idaho law.

(2) The department shall:

(a) Provide to the private entity to whom a contract is awarded pursuant to the provisions of subsection (1) of this section, any applications for permits or tags, documents or other information required by the private entity to conduct the drawings; and

(b) Otherwise cooperate with the private entity in conducting the drawings;

(c) Continue to be solely responsible for enforcement and administration of all laws relating to licenses and tags.

(3) As soon as practicable after a drawing is completed, the private entity shall submit the results of the drawing to the department.

(4) The commission shall adopt rules necessary to carry out the provisions of this section.

Approved March 22, 2016

CHAPTER 104
(S.B. No. 1340)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-1109, IDAHO CODE, TO PROVIDE A PROCESS FOR CLAIMS IN THE EVENT OF DAMAGE TO BEES AND BEEHIVES BY BEARS.

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

SECTION 1. That Section 36-1109, Idaho Code, be, and the same is hereby amended to read as follows:

36-1109. CONTROL OF DAMAGE BY BLACK BEARS, GRIZZLY BEARS OR MOUNTAIN LIONS -- COMPENSATION FOR DAMAGE. (a) Prevention of depredation shall be a priority management objective of the department, and it is the obligation of landowners to take all reasonable steps to prevent property loss from black bears, grizzly bears or mountain lions or to mitigate damage by such. The director, or his representative, will consult with appropriate land management agencies and landusers before transplanting or relocating any black bear, grizzly bear or mountain lion.

(b) When any black bear, grizzly bear or mountain lion has done damage to or is destroying livestock on public, state, or private land, whether owned or leased, or when any black bear or grizzly bear has done damage to or is destroying berries, bees, beehives or honey on private land, the owner or his representative of such livestock shall, for the purposes of filing a claim, report such loss to a representative of the U.S. department of agriculture animal plant and health inspection services/animal damage control (APHIS/ADC) who shall, within seventy-two (72) hours, investigate the conditions complained of. For purposes of this section, livestock shall be defined as domestic cattle, sheep, and goats. For purposes of this section, grizzly bear shall be defined as any grizzly bear not protected by the federal endangered species act. If it appears that the complaint is well founded and livestock, berries, bees, beehives or honey of the complainant has been damaged or destroyed by such black bear, grizzly bear or mountain lion, APHIS/ADC shall so inform the owner or his representative of the extent of physical damage or destruction in question. The owner shall provide the director or the department's regional office with the APHIS/ADC determination of damages or destruction. The physical damages, without establishing a monetary value thereon, as determined by the APHIS/ADC representative shall be final, and shall be binding upon the owner or his representative and on the department.

(c) Any claim for damages must be in written form, shall be in the form of a claim for damages substantially the same as required in section 6-907, Idaho Code, shall be attested to by the claimant under oath, and the claim shall be for an amount of at least one thousand dollars (\$1,000) in damages per occurrence. The department shall prepare and make available suitable forms for claims for damages. Claims may be submitted only for the fiscal year (July 1 through June 30) in which they occurred. Any person submitting a fraudulent claim shall be prosecuted for a felony as provided in section 18-2706, Idaho Code.

1. Upon receipt by the department, the department shall review the claim, and if approved, pay it as provided in section 36-115, Idaho Code. Failure on the part of the owner or representative to allow on-site access shall negate the claim for damages.

2. If the department accepts the claim for damages as submitted by the owner or his representative, the department may approve the claim for payment, or may make a counter offer. If the owner or his representative rejects the department's counter offer, this rejection or refusal

must be in writing and submitted within five (5) business days. The value of the damage or destruction will then be determined pursuant to the provisions of subsection (b)3. of section 36-1108, Idaho Code, and, in circumstances so provided for by the provisions of subsection (b)3. of section 36-1108, Idaho Code, pursuant to the provisions of subsection (b)4. of section 36-1108, Idaho Code. Any claim received by the department under the provisions of this section must be processed by the department within sixty (60) calendar days of receipt. If the claim is approved for payment, the claim must be immediately forwarded to the department of administration for payment. Any damage claim determination by an independent insurance adjuster, accepted by the parties, must be paid by the department within forty-five (45) days of the determination. If the claim is arbitrated, the arbitration must be completed within one hundred eighty (180) days of filing the claim for such damages.

Approved March 22, 2016

CHAPTER 105
(S.B. No. 1288)

AN ACT

RELATING TO EMPLOYMENT SECURITY LAW; AMENDING SECTION 72-1347B, IDAHO CODE, TO REMOVE LANGUAGE FOR TRANSFERRING TRAINING FUNDS TO THE EMPLOYMENT SECURITY RESERVE FUND, TO REVISE LANGUAGE DESCRIBING APPROPRIATE USES FOR THE TRAINING FUND, TO EXTEND THE SUNSET PROVISION, TO PROVIDE CORRECT CODE REFERENCES AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 72-1347B, Idaho Code, be, and the same is hereby amended to read as follows:

72-1347B. WORKFORCE DEVELOPMENT TRAINING FUND. (1) There is established in the state treasury a special trust fund, separate and apart from all other public funds of this state, to be known as the workforce development training fund, hereinafter "training fund." Except as provided herein, all proceeds from the training tax defined in subsection (47) of this section shall be paid into the training fund. The state treasurer shall be the custodian of the training fund and shall invest said moneys in accordance with law. Any interest earned on the moneys in the training fund shall be deposited in the training fund. Moneys in the training fund shall be disbursed in accordance with the directions of the director. In any month when the unencumbered balance in the training fund exceeds six million dollars (\$6,000,000), the excess amount over six million dollars (\$6,000,000) shall be transferred to the employment security reserve fund, section 72-1347A, Idaho Code. For the purposes of this subsection (1), the unencumbered balance in the training fund is the balance in such fund reduced by the sum of:

- (a) ~~The amounts that have been obligated pursuant to fully-executed workforce development training fund contracts; and~~
- (b) ~~Any administrative costs related to the training fund that are due and payable.~~

(2) All moneys in the training fund are perpetually appropriated to the director department of labor for expenditure in accordance with the provisions of this section. The purpose of the training fund is to provide or expand training and retraining opportunities in an expeditious manner that would not otherwise exist for Idaho's workforce. The training fund is in-

tended to supplement, but not to supplant or compete with, money available through existing training programs. The moneys in the training fund shall be used for the following purposes:

(a) To provide training and retraining for skills necessary for specific economic opportunities and industrial expansion initiatives;

(b) To provide ~~training to upgrade the skills of currently employed workers at risk of being permanently laid off~~ innovative training solutions to meet industry specific workforce needs or local workforce challenges;

(c) For refunds of training taxes erroneously collected and deposited in the workforce training fund;

(d) For all administrative expenses incurred by the department associated with the collection of the training tax and any other administrative expenses associated with the training fund.

(3) Expenditures from the training fund for purposes authorized in paragraphs (a) and (b) of subsection (2) of this section shall be approved by the director⁷ and the director of the department of commerce, in consultation with the office of the governor, based on procedures, criteria and performance measures established by the council appointed pursuant to section 72-1336, Idaho Code. ~~The activities funded by the training fund will be coordinated with similar activities funded by the state division of professional-technical education.~~

(4) Expenditures from the training fund for purposes authorized in paragraphs (c) and (d) of subsection (2) of this section shall be approved by the director. The director shall pay all approved expenditures as long as the training fund has a positive balance.

(5) The activities funded by the training fund will be coordinated with similar activities funded by the state division of professional-technical education.

(6) The council shall report annually to the governor and the joint finance-appropriations committee the commitments and expenditures made from the training fund in the preceding fiscal year and the results of the activities funded by the training fund.

(47) A training tax is hereby imposed on all covered employers required to pay contributions pursuant to section 72-1350, Idaho Code, with the exception of deficit employers who have been assigned a taxable wage rate from rate class six pursuant to section 72-1350, Idaho Code. The training tax rate shall be equal to three percent (3%) of the taxable wage rate then in effect for each eligible, standard-rated and deficit employer. The training tax shall be due and payable at the same time and in the same manner as contributions. This subsection is repealed effective January 1, 2018~~22~~, unless, prior to that date, the Idaho legislature approves the continuation of this subsection by repeal of this sunset clause.

(58) The provisions of this chapter which apply to the payment and collection of contributions also apply to the payment and collection of the training tax, including the same calculations, assessments, method of payment, penalties, interest, costs, liens, injunctive relief, collection procedures and refund procedures. In the administration of the provisions of this section, the director is granted all rights, authority, and prerogatives granted under the provisions of this chapter. Moneys collected from an employer delinquent in paying contributions, reserve taxes and the training tax shall first be applied to any penalty and interest imposed pursuant to the provisions of this chapter and shall then be applied pro rata to delinquent contributions to the employment security fund, section 72-1346, Idaho Code, delinquent reserve taxes to the reserve fund, section 72-1347A, Idaho Code, and delinquent training taxes to the training fund. Any interest and penalties collected pursuant to this subsection shall be paid into the state employment security administrative and reimbursement fund, section 72-1348, Idaho Code, and any interest or penalties refunded under this

subsection shall be paid out of that same fund. Training taxes paid pursuant to this section shall not be credited to the employer's experience rating account and may not be deducted by any employer from the wages of individuals in its employ. All training taxes shall be deposited in the clearing account of the employment security fund, section 72-1346, Idaho Code, for clearance only and shall not become part of such fund. After clearance, the moneys shall be deposited in the training fund established in subsection (1) of this section.

(69) Administrative costs related to the training fund shall be paid from the training fund in accordance with subsection (34) of this section.

Approved March 22, 2016

CHAPTER 106
(S.B. No. 1295)

AN ACT

RELATING TO PUBLIC ASSISTANCE; AMENDING SECTION 56-209h, IDAHO CODE, TO REVISE PROVISIONS REGARDING CIVIL MONETARY PENALTIES FOR PROVIDERS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 56-209h, Idaho Code, be, and the same is hereby amended to read as follows:

56-209h. ADMINISTRATIVE REMEDIES. (1) Definitions. For purposes of this section:

(a) "Abuse" or "abusive" means provider practices that are inconsistent with sound fiscal, business, child care or medical practices, and result in an unnecessary cost to a public assistance program, in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care, or in physical harm, pain or mental anguish to a public assistance recipient.

(b) "Claim" means any request or demand for payment, or document submitted to initiate payment, for items or services provided under a public assistance program, whether under a contract or otherwise.

(c) "Fraud" or "fraudulent" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person.

(d) "Intentional program violation" means intentionally false or misleading action, omission or statement made in order to qualify as a provider or recipient in a public assistance program.

(e) "Knowingly," "known" or "with knowledge" means that a person, with respect to information or an action:

(i) Has actual knowledge of the information or action; or

(ii) Acts in deliberate ignorance of the truth or falsity of the information or the correctness or incorrectness of the action; or

(iii) Acts in reckless disregard of the truth or falsity of the information or the correctness or incorrectness of the action.

(f) "Managing employee" means a general manager, business manager, administrator, director or other individual who exercises operational or managerial control over, or who directly or indirectly conducts the day-to-day operation of, an institution, organization or agency.

(g) "Medicaid fraud control unit" means that medicaid fraud control unit as provided for in section 56-226, Idaho Code.

(h) "Ownership or control interest" means a person or entity that:

- (i) Has an ownership interest totaling twenty-five percent (25%) or more in an entity; or
- (ii) Is an officer or director of an entity that is organized as a corporation; or
- (iii) Is a partner in an entity that is organized as a partnership; or
- (iv) Is a managing member in an entity that is organized as a limited liability company.

(i) "Provider" means an individual, organization, agency or other entity providing items or services under a public assistance program.

(j) "Public assistance program" means assistance for which provision is made in any federal or state law existing or hereafter enacted by the state of Idaho or the congress of the United States by which payments are made from the federal government to the state in aid, or in respect to payment by the state for welfare purposes to any category of needy person, and any other program of assistance for which provision for federal or state funds for aid may from time to time be made.

(2) The department shall establish and operate an administrative fraud control program to enforce violations of the provisions of this chapter and of the state plan pursuant to subchapters XIX and XXI, chapter 7, title 42, U.S.C., that are outside the scope of the duties of the medicaid fraud control unit and to render and receive referrals from and to said unit.

(3) Review of documentation of services. All claims submitted by providers for payment are subject to prepayment and postpayment review as designated by rule. Except as otherwise provided by rule, providers shall generate documentation at the time of service sufficient to support each claim, and shall retain the documentation for a minimum of five (5) years from the date the item or service was provided. The department or authorized agent shall be given immediate access to such documentation upon written request.

(4) Immediate action. In the event that the department identifies a suspected case of fraud or abuse and the department has reason to believe that payments made during the investigation may be difficult or impractical to recover, the department may suspend or withhold payments to the provider pending investigation. In the event that the department identifies a suspected case of fraud or abuse and it determines that it is necessary to prevent or avoid immediate danger to the public health or safety, the department may summarily suspend a provider agreement pending investigation. When payments have been suspended or withheld or a provider agreement suspended pending investigation, the department shall provide for a hearing within thirty (30) days of receipt of any duly filed notice of appeal.

(5) Recovery of payments. Upon referral of a matter from the medicaid fraud control unit, or if it is determined by the department that any condition of payment contained in rule, regulation, statute, or provider agreement was not met, the department may initiate administrative proceedings to recover any payments made for items or services under any public assistance contract or provider agreement the individual or entity has with the department. Interest shall accrue on overpayments at the statutory rate set forth in section 28-22-104, Idaho Code, from the date of final determination of the amount owed for items or services until the date of recovery.

(6) Provider status. The department may terminate the provider agreement or otherwise deny provider status to any individual or entity who:

- (a) Submits a claim with knowledge that the claim is incorrect, including reporting costs as allowable which were known to be disallowed in a previous audit, unless the provider clearly indicates that the item is being claimed to establish the basis for an appeal and each disputed item and amount is specifically identified; or
- (b) Submits a fraudulent claim; or

- (c) Knowingly makes a false statement or representation of material fact in any document required to be maintained or submitted to the department; or
- (d) Submits a claim for an item or service known to be medically unnecessary; or
- (e) Fails to provide, upon written request by the department, immediate access to documentation required to be maintained; or
- (f) Fails repeatedly or substantially to comply with the rules and regulations governing medical assistance payments or other public assistance program payments; or
- (g) Knowingly violates any material term or condition of its provider agreement; or
- (h) Has failed to repay, or was a "managing employee" or had an "ownership or control interest" in any entity that has failed to repay, any overpayments or claims previously found to have been obtained contrary to statute, rule, regulation or provider agreement; or
- (i) Has been found, or was a "managing employee" in any entity which that has been found, to have engaged in fraudulent conduct or abusive conduct in connection with the delivery of health care or public assistance items or services; or
- (j) Fails to meet the qualifications specifically required by rule or by any applicable licensing board.

Any individual or entity denied provider status under this section may be precluded from participating as a provider in any public assistance program for up to five (5) years from the date the department's action becomes final.

(7) The department must refer all cases of suspected medicaid provider fraud to the medicaid fraud control unit and shall promptly comply with any request from the medicaid fraud control unit for access to and free copies of any records or information kept by the department or its contractors, computerized data stored by the department or its contractors, and any information kept by providers to which the department is authorized access by law.

(8) Civil monetary penalties. The department may also assess civil monetary penalties against a provider and any officer, director, owner, and/or managing employee of a provider in the circumstances listed in paragraphs (a) and (b) of this subsection. The penalties provided for in this subsection are intended to be remedial, recovering, at a minimum, costs of investigation and administrative review, and placing the costs associated with noncompliance on the offending provider. The department shall promulgate rules clarifying the methodology used when computing and assessing a civil monetary penalty.

(a) For conduct identified in subsections (6) (a) through (6) (i) of this section, the amount of the penalties shall be up to one thousand dollars (\$1,000) for each item or service improperly claimed, except that in the case of multiple penalties the department may reduce the penalties to not less than ~~twenty-five~~ ten percent (25/10%) of the amount of each item or service improperly claimed if an amount can be readily determined. Each line item of a claim, or cost on a cost report is considered a separate claim.

(b) For failing to perform required background checks or failing to meet required timelines for completion of background checks, the amount of the penalty shall be five hundred dollars (\$500) for each month worked for each staff person for whom the background check was not performed or not timely performed up to a maximum of five thousand dollars (\$5,000) per month. A partial month is considered a full month for purposes of determining the amount of the penalty.

~~These penalties are intended to be remedial, recovering at a minimum costs of investigation and administrative review, and placing the costs associated with noncompliance on the offending provider.~~

(9) Exclusion. Any individual or entity convicted of a criminal offense related to the delivery of an item or service under any state or federal program shall be excluded from program participation as a medicaid provider for a period of not less than ten (10) years. Unless otherwise provided in this section or required by federal law, the department may exclude any individual or entity for a period of not less than one (1) year for any conduct for which the secretary of the department of health and human services or designee could exclude an individual or entity.

(10) Sanction of individuals or entities. The department may sanction individuals or entities by barring them from public assistance programs for intentional program violations where the federal law allows sanctioning individuals from receiving assistance. Individuals or entities who are determined to have committed an intentional program violation will be sanctioned from receiving public assistance for a period of twelve (12) months for the first violation, twenty-four (24) months for the second violation and permanently for the third violation.

(11) Individuals or entities subject to administrative remedies as described in subsections (4) through (10) of this section shall be provided the opportunity to appeal pursuant to chapter 52, title 67, Idaho Code, and the department's rules for contested cases.

(12) Adoption of rules. The department shall promulgate such rules as are necessary to carry out the policies and purposes of this section.

Approved March 22, 2016

CHAPTER 107
(S.B. No. 1296)

AN ACT

RELATING TO BACKGROUND CHECKS; AMENDING SECTION 56-1004A, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE REGARDING A FEDERAL PILOT PROJECT.

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

SECTION 1. That Section 56-1004A, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

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

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

- (a) Required or ordered by the court pursuant to chapter 5, title 15 or chapter 4, title 66, Idaho Code;
- (b) Requested by those required to undergo such checks; and
- (c) Paid for in full by those required to undergo such checks.
- (4) The criminal history and background check will be a fingerprint-based check of state and national records and may include information from the following:
 - (a) Statewide criminal identification bureau;
 - (b) Federal bureau of investigation (FBI);
 - (c) National crime information center;
 - (d) Statewide sex offender registry;
 - (e) Idaho transportation department driving records;
 - (f) Adult and child protection registries;
 - (g) Nurse aide registry; and
 - (h) Department of health and human services office of the inspector general list of excluded individuals and entities.
- (5) The department of health and welfare shall promulgate rules to further define those individuals who are required to have a criminal history and background check and the effective date. Each individual shall complete an application, which includes a notarized signature, on forms provided by the department. The completed application authorizes the department to obtain and release information in accordance with state and federal law. The applicant must disclose all information requested, including information on past convictions, driver's license revocations, and known adult or child protection findings. Once an application has been completed, the employer, at its discretion, may allow the individual to provide care or services prior to the individual completing fingerprinting and pending completion of the criminal history and background check by the department. The department shall promulgate rules defining the time frame for submitting the application. Under no circumstances may the individual be allowed to provide care or services where the employer has reviewed the completed application and the individual has disclosed a designated crime as set forth in rule.
- (6) The department shall review the information received from the criminal history and background check and determine whether the applicant has a criminal or other relevant record that would disqualify the individual. The department shall determine which crimes disqualify the applicant and for what period of time according to promulgated rules. The process for the check and the issuance of a clearance or denial is set forth in department rules. The applicant shall be provided an opportunity for a formal review of a denial. The department shall communicate clearance or denial to the applicant and the applicant's employer.
- (7) Applicants are responsible for the cost of the criminal history and background check except where otherwise provided by department rules.
- (8) The department, or an employer of an applicant, who acts in reasonable reliance on the results of the criminal history and background check in making an employment decision, is immune from liability for that decision when it is based on such results.
- (9) The department, its officers and employees are immune from liability for the consequences of including or excluding classes of individuals in the criminal history and background check process.
- (10) Clearance through the criminal history and background check process is not a determination of suitability for employment.
- ~~(11) Effective until September 30, 2007, or when federal funding is no longer available, the legislature hereby authorizes the department of health and welfare to participate in a federal pilot project to conduct criminal history and background checks of providers, employees and contractors who have access to patients in long-term care settings. Long-term care facilities or providers include nursing facilities, institutional care facilities for people with intellectual disabilities, residential or assisted~~

~~living facilities, long-term care hospitals or hospitals with swing beds, and home health and hospice providers. The criminal history and background checks for the long-term care providers, employees and contractors will be funded through the federal grant at no cost to the long-term care providers, employees or contractors until September 30, 2007, or the federal funding is no longer available.~~

Approved March 22, 2016

CHAPTER 108
(S.B. No. 1320)

AN ACT

RELATING TO GENERAL POWERS OF THE BOARD OF TRUSTEES OF COMMUNITY COLLEGE DISTRICTS; AMENDING SECTION 33-2107, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY, TO CLARIFY CERTAIN POWERS OF THE BOARD OF TRUSTEES OF EACH COMMUNITY COLLEGE DISTRICT AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 33-2211, IDAHO CODE, TO PROVIDE CODE REFERENCES.

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

SECTION 1. That Section 33-2107, Idaho Code, be, and the same is hereby amended to read as follows:

33-2107. GENERAL POWERS OF THE BOARD OF TRUSTEES. The board of trustees of each ~~junior~~ community college district shall have the power:

~~(1.)~~ (1.) To adopt ~~rules~~ policies and regulations for its own government and the government of the college;

~~(2.)~~ (2.) To employ legal counsel and other professional, and nonprofessional persons, and to prescribe their qualifications;

~~(3.)~~ (3.) To acquire and hold, and to dispose of, real and personal property, and to construct, repair, remodel and remove buildings in the manner prescribed for trustees of school districts pursuant to sections 33-301 and 33-601, Idaho Code;

~~(4.)~~ (4.) To contract for the acquisition, purchase or repair of buildings, in the manner prescribed for trustees of school districts pursuant to section 33-601, Idaho Code;

~~(5.)~~ (5.) ~~To dispose of real and personal property in the manner prescribed for trustees of school districts;~~

~~6.~~ To issue general obligation or revenue bonds in the manner now, or as may be, prescribed by law;

~~7.~~ (6) To convey and transfer real property of the district upon which no college buildings used for instruction are situated, to nonprofit corporations, school districts, junior college housing commissions, counties or municipalities, with or without consideration; to rent real or personal property for the use of the college, its students or faculty, for such terms as may be determined by the board of trustees; to lease real property of the district not actually in use for college instructional purposes for such terms as may be determined by the board; and to lease real property and improvements to the Idaho state building authority, for a term not to exceed fifty (50) years, with or without consideration, and to enter into agreements with the Idaho state building authority for the Idaho state building authority to provide a facility, pursuant to section 67-6410, Idaho Code;

~~8.~~ (7) To acquire, hold, and dispose of, water rights;

~~9.~~ (8) To accept grants or gifts of money, materials or property of any kind from any governmental agency, or from any person, firm or association, on such terms as may be determined by the granter;

~~10.~~ (9) To cooperate with any governmental agency, or any person, firm or association in the conduct of any educational program; to accept grants from any source for the conduct of such program; and to conduct such program on, or off, campus;

~~11.~~ (10) To invest any funds of the district in such securities, and apply the interest or profits from such investment, as prescribed for the investment of the funds, and the application of the interest or profits, in the case of school district boards of trustees.

SECTION 2. That Section 33-2211, Idaho Code, be, and the same is hereby amended to read as follows:

33-2211. POWERS OF STATE BOARD FOR PROFESSIONAL-TECHNICAL EDUCATION. The state board for professional-technical education shall have the power:

1. To adopt rules for its own government, the government of the Eastern Idaho Technical College and any professional-technical or vocational rehabilitation program, including programs under chapters 22 and 23, title 33, Idaho Code;

2. To employ professional and nonprofessional persons and to prescribe their qualifications;

3. To acquire and hold, and to dispose of, real and personal property, and to construct, repair, remodel and remove buildings;

4. To contract for the acquisition, purchase or repair of buildings, in the manner prescribed for trustees of school districts pursuant to section 33-601, Idaho Code;

5. To dispose of real and personal property in the manner prescribed for trustees of school districts pursuant to section 33-601, Idaho Code;

6. To convey and transfer real property of the college upon which no buildings used for instruction are situated, to nonprofit corporations, school districts, community college housing commissions, counties or municipalities, with or without consideration; to rent real or personal property for the use of the college, its students or faculty, for such terms as may be determined by the state board for professional-technical education; and to lease real or personal property of the college not actually in use for instructional purposes on such terms as may be determined by the state board for professional-technical education;

7. To acquire, hold, and dispose of, water rights;

8. To accept grants or gifts of money, materials, or property of any kind from any governmental agency, or from any person, firm, or association, on such terms as may be determined by the grantor;

9. To cooperate with any governmental agency, or any person, firm or association in the conduct of any educational program; to accept grants from any source for the conduct of such program, and to conduct such program on, or off, campus;

10. To employ a president of the college and, with his advice, to appoint such assistants, instructors, specialists and other employees as are required for the operation of the college; to fix salaries and prescribe duties; and to remove the president or other employees in accordance with the policies and rules of the state board of education;

11. With the advice of the president, to prescribe the courses and programs of study, the requirements for admission, the time and standards for completion of such courses and programs, and to grant certificates or associate of applied science degrees for those students entitled thereto;

12. To employ architects or engineers in planning the construction, remodeling or repair of any building or property and, whenever no other agency is designated by law so to do, to let contracts for such construction, remodeling or repair and to supervise the work thereof;

13. To have at all times, general supervision and control of all property, real and personal, appertaining to the college, and to insure the same.

Approved March 22, 2016

CHAPTER 109
(S.B. No. 1222)

AN ACT

RELATING TO GROUND WATER DISTRICTS; AMENDING SECTION 42-5245, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE CONTENT OF PETITIONS FOR ANNEXATION INTO A DISTRICT; AND AMENDING SECTION 42-5248, IDAHO CODE, TO REVISE PROVISIONS REGARDING ASSESSMENTS AGAINST ANNEXED LANDS.

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

SECTION 1. That Section 42-5245, Idaho Code, be, and the same is hereby amended to read as follows:

42-5245. PETITION FOR ANNEXATION OF LAND. Any ground water user, as defined in section 42-5201(8), Idaho Code, as well as any user of ground water for domestic or stock use as defined by sections 42-111 and 42-1401A, Idaho Code, may file with the board a petition in writing praying that the land and/or facilities listed under the ground water user's ground water right(s) may be annexed into the district. The petition shall contain a legal description of the lands and any other information the district may require, and the petitioner shall state under oath that petitioner holds the title to said lands. If the ground water user is a nonirrigator, the petition shall state if the ground water user is seeking to join the district solely to participate in the district's mitigation plans or and other mitigation activities.

SECTION 2. That Section 42-5248, Idaho Code, be, and the same is hereby amended to read as follows:

42-5248. ASSESSMENTS AGAINST ANNEXED LANDS. (1) The board of directors may require, as a condition to the granting of an annexation petition, that the petitioners shall severally pay to the district such respective sums, as nearly as the same can be estimated, as said petitioners, or their grantors, would have been required to pay such district, had such lands been included in such district at the time it was originally formed, together with a proportionate share of the expenses of the district accrued since formation.

(2) If the petition of a nonirrigator seeks only to participate in a the district's mitigation plans and other mitigation activities, the board may require a proportionate sum of the mitigation expenses accrued since the district was originally formed to be paid as a condition to the granting of an annexation petition.

Approved March 22, 2016

CHAPTER 110
(S.B. No. 1223)

AN ACT

RELATING TO GROUND WATER DISTRICTS; AMENDING SECTION 42-5259, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE PARTICIPATION OF NONMEMBERS IN GROUND WATER DISTRICTS FOR MITIGATION PURPOSES, TO REMOVE A PROVISION REGARDING INTERPRETATION OF SPECIFIED LAW, TO REMOVE PROVISIONS REGARDING NONMEMBERS DEEMED PARTICIPANTS IN DISTRICTS IF SO PROVIDED BY LAW AND TO REMOVE PROVISIONS REGARDING THE COLLECTION OF A PROPORTIONAL SHARE OF COSTS.

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

SECTION 1. That Section 42-5259, Idaho Code, be, and the same is hereby amended to read as follows:

42-5259. PARTICIPATION BY NONMEMBER IN DISTRICT SOLELY FOR MITIGATION PURPOSES. ~~(1) Upon written request from a any ground water user who is not a member of a district, and regardless of whether such user is an irrigator,~~ a district board of directors shall may enter a contract with such nonmember pursuant to which the nonmember shall be allowed to participate fully in, and obtain all benefits of, any mitigation plan, purpose or activity the district currently has in force or is developing, pursuant to terms and conditions acceptable to both parties, provided that:

(a1) The board finds that the plan is likely to be effective in mitigating the effects of such nonmember's ground water use, and that including the nonmember within the mitigation plan's coverage will not impair the plan's effectiveness as to district members;

(b2) If the district's mitigation plan has been approved by the director, the board shall evaluate the contract request in accordance with any conditions of the district's mitigation plan which address equitable participation by ground water users who do not initially participate in such mitigation plan;

(e3) Before the contract may be effective, the board may collect from the nonmember a payment adequate to compensate the district for the nonmember's proportional share of the costs the district already has incurred in developing and implementing the mitigation plan;

(d4) The board may include in the contract a provision requiring the nonmember to pay a reasonable surcharge, either annually or on some other basis, to reimburse the district for such nonmember's proportional share of those past or future costs of operating the district attributable to formulating or implementing the mitigation plan or plans in which the nonmember is participating;

(e5) The board may require the nonmember to provide security to assure the payment of all assessments and charges related to the contract;

~~(f) Nothing in this section shall be interpreted to limit the district's ability to enter into a contract with nonmembers pursuant to terms and conditions acceptable to both parties.~~

~~(2) If the legislature has provided by law that the holders of certain ground water rights not otherwise covered by a mitigation plan approved by the director of the department of water resources shall be deemed nonmember participants in the district solely for mitigation purposes, then the district may collect a proportional share of the costs incurred under the mitigation plan from the nonmember participants, as follows:~~

~~(a) The board may collect from each nonmember participant a payment adequate to compensate the district for the nonmember's proportional~~

~~share of the past itemized costs the district has incurred in developing and implementing the mitigation plan;~~

~~(b) The board may require the nonmember to pay a reasonable surcharge, either annually or on some other basis, to reimburse the district for the nonmember's proportional share of those past or future itemized costs of operating the district attributable to formulating or implementing the mitigation plan or plans in which the nonmember is participating;~~

~~(c) The board may require that the nonmember pay the amounts owed under this section before coverage under the mitigation plan is effective, provided the board has notified the nonmember by mail of the amount owed at least forty-two (42) days prior to the due date;~~

~~(d) As an alternative to immediate payment of the amount owed, the board may accept security from the nonmember to assure that payment of all costs and charges owed by the nonmember under this section shall be paid by a fixed later date;~~

~~(e) Nothing in this section shall be interpreted to limit the district's ability to enter into a contract with nonmembers pursuant to terms and conditions acceptable to both parties;~~

~~(f) The board shall have the right to collect any costs and charges due and unpaid under this section by civil action brought in the name of the district in any court of competent jurisdiction. In addition to the amount found due, together with interest and costs, the district also may recover such sum as the court may adjudge reasonable as attorney's fees in said action.~~

Approved March 22, 2016

CHAPTER 111
(S.B. No. 1237)

AN ACT

RELATING TO ENVIRONMENTAL QUALITY; AMENDING SECTION 39-3609, IDAHO CODE, TO REVISE PRIORITY CLASSIFICATIONS FOR CERTAIN WATER BODIES IN REGARD TO THE DEVELOPMENT OF TOTAL MAXIMUM DAILY LOAD OR EQUIVALENT PROCESSES.

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

SECTION 1. That Section 39-3609, Idaho Code, be, and the same is hereby amended to read as follows:

39-3609. IDENTIFICATION OF WATER BODIES WHERE BENEFICIAL USES ARE NOT FULLY SUPPORTED. In accordance with the provisions set forth in the federal clean water act and after consultation with the appropriate basin advisory group and watershed advisory group, the director shall notify the appropriate public agencies of any water bodies in which the designated beneficial uses are not fully supported. For water bodies so identified, the director shall place such water bodies into one (1) of the following priority classifications for the development of total maximum daily load or equivalent processes:

(1) "High₇," ~~wherein definitive and generally accepted water quality data indicate that unless remedial actions are taken in the near term there will be significant risk to designated or existing beneficial uses of a particular water body~~ The director shall place water bodies in this category taking into account the availability and quality of data, department resources, and whether the severity of pollution poses a significant risk to designated or existing beneficial uses. The director, in establishing this category, shall consider public involvement as set forth in this chapter.

(2) "~~Medium₇.~~" ~~wherein water quality data indicate that unless remedial actions are taken there will be~~ The director shall place water bodies in this category taking into account the availability and quality of data, department resources, and whether the severity of the pollution poses a risks to designated or existing beneficial uses.

(3) "~~Low₇.~~" ~~wherein limited or subjective water quality data indicate designated uses are not fully supported, but that risks to human health, aquatic life, or the recreational, economic or aesthetic importance of a particular water body are minimal~~ The director shall place water bodies in this category taking into account the availability and quality of data, department resources, and whether the severity of pollution poses a minimal risk to designated or existing beneficial uses.

Approved March 22, 2016

CHAPTER 112
(S.B. No. 1224)

AN ACT

RELATING TO GROUND WATER DISTRICTS; AMENDING SECTION 42-5232, IDAHO CODE, TO PROVIDE AN ALTERNATIVE MEANS OF DETERMINING A MEMBER'S PROPORTIONATE SHARE OF THE TOTAL OF ALL AMOUNTS TO BE ASSESSED; AMENDING SECTION 42-5233, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE TOTAL DOLLAR AMOUNT OF CERTAIN WARRANTS; AND AMENDING SECTION 42-5234, IDAHO CODE, TO PROVIDE AN ALTERNATIVE MEANS OF DETERMINING CERTAIN AGGREGATE GROUND WATER RIGHTS.

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

SECTION 1. That Section 42-5232, Idaho Code, be, and the same is hereby amended to read as follows:

42-5232. LEVY OF ASSESSMENTS. (1) The secretary of the board shall be the assessor of the district, and on or before August 1 of each year shall prepare an assessment book containing a full and accurate list of all lands within the district that are subject to assessment under this chapter.

(2) At a regular meeting of the board between August 1 and November 1 of each year, the board of directors shall determine the amount necessary to be raised for payment of the annual payment on any and all indebtedness of the district for the following year. Money received in payment of such assessments shall be deposited in a separate fund to be known as the debt retirement fund.

(3) The board shall, in addition, determine the assessments necessary to pay, without limitation, the expenses of developing, operating or maintaining any mitigation plan established by the district and the cost of contracts with any person for mitigation plans, or evaluation of proposed contracts. Money received in payment of such assessments shall be deposited in a separate fund to be known as the mitigation expense fund.

(4) The board shall, in addition, determine the assessments necessary to pay maintenance and operation of the district not related to mitigation plans or purposes. These operation and maintenance duties include making the assessment book, giving notice of assessments and making collections thereof, and other duties, programs or projects of the district to the extent such duties, programs or projects are not attributable to mitigation plans or purposes. Money received in payment of such assessments shall be deposited in a separate fund of the district to be known as the operating expense fund.

(5) Any ground water user who becomes a member of a district for mitigation purposes shall be subject to no assessment beyond his proportional share of the costs, including administrative costs and other reasonable expenses, of any mitigation plan or actions or activities in furtherance of the district's mitigation plans or purposes.

(6) No assessment made pursuant to this chapter shall be a lien against any municipal property.

(7) Except as otherwise provided in this chapter, each member shall pay a proportionate share of the total of all amounts to be assessed for the purposes aforementioned, which share shall be based on (a) the ratio which the quantity of water the water user is authorized to appropriate under the member's ground water right(s) bears to the total quantity of water authorized for appropriation under the ground water rights of all water users in the district, or (b) the ratio of acres the water use is authorized to irrigate under the member's ground water right bears to the total quantity of water authorized for appropriation under the ground water rights of all water users in the district; provided, that the board shall be entitled to levy assessments that adjust a member's proportionate share to take into consideration priority dates, consumptive use under the members' respective ground water rights, other attributes of the ground water rights appurtenant to the assessed lands, and/or the benefits the member derives from a mitigation plan or other activity of the district. Any nonirrigator who is a member of a ground water district, or whose ground water rights are appurtenant to property located within a ground water district, and who has adopted and implemented a mitigation plan that has been approved by the director and that is not inconsistent with such a plan approved by the director and adopted and implemented by the ground water district, shall be entitled to an assessment credit for the contribution made by that nonirrigator's mitigation plan towards the district's mitigation obligation as determined by the director.

SECTION 2. That Section 42-5233, Idaho Code, be, and the same is hereby amended to read as follows:

42-5233. POWER TO INCUR INDEBTEDNESS -- ASSESSMENTS TO SECURE REPAYMENT -- WARRANTS. (1) In order to secure funds for the mitigation plan or plans for the district, the board of directors may, by resolution duly adopted and entered upon the minutes, incur indebtedness by contract with a money lending institution; provided however, that the term of such indebtedness shall not exceed thirty (30) years. To secure the repayment of any indebtedness so incurred, the board shall levy assessments over the term of the indebtedness in amounts sufficient to repay the interest and principal as it falls due. Such assessments shall be levied in the manner and shall be subject to the limitations set forth in section 42-5232, Idaho Code, and may be levied only if the indebtedness has been approved at an election pursuant to sections 42-5234 through 42-5238, Idaho Code.

(2) Notwithstanding the provisions of subsection (1) of this section, the board of directors may, before the collection of the first assessment, incur indebtedness for the purpose of organization, or for any of the purposes of this chapter, and cause warrants of the district to issue therefor, provided that the total dollar amount of the warrants authorized to be issued shall not exceed three dollars (\$3.00) for each acre of land authorized to be irrigated with ground water within the district, or for each two-hundredths (.02) of a cubic foot per second of ground water authorized to be diverted and used upon lands or facilities located within the district. Following the collection of the first assessment, the board of directors may at any time issue warrants of the district for the purpose of paying claims of indebtedness against the district, including salaries of officers and employees, not to exceed the district's anticipated revenue.

(3) The warrants herein authorized shall be in form and substance the same as county warrants or as nearly 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 endorse thereon the day of presentation for payment with the additional endorsement 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 sufficient funds are available for that purpose to advertise in a newspaper in the county in which the district is situated requiring the presentation to the treasurer for payment of as many of the outstanding warrants as are able to be paid. 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 endorsement.

SECTION 3. That Section 42-5234, Idaho Code, be, and the same is hereby amended to read as follows:

42-5234. ELECTION FOR INDEBTEDNESS -- REFERENDUM PETITION. (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 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. 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 42-5210, 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 ground water rights equal not less than ten percent (10%), measured in cubic feet per second or acres irrigated, of the aggregate ground 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, 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.

(2) Any election for indebtedness required to be held hereunder shall be called by resolution, which resolution shall also fix the date upon which such election shall be held, the manner of holding the same and the method of voting for or against the incurring of the indebtedness. Such resolution shall also fix the compensation to be paid the officers of the election and shall designate the precincts and polling places and shall appoint for each polling place, from each precinct from the electors thereof, the of-

ficers of such election, which officers shall consist of three (3) judges, one (1) of whom shall act as clerk, who shall constitute a board of election for each polling place. The description of precincts may be made by reference to any order or orders of the county commission of the county or counties in which the district or any part thereof is situated, or by reference to any previous order, or resolution of the board or by detailed description of such precincts. Precincts established by the county commissions of the various counties may be consolidated for special elections held hereunder. In the event any such election shall be called to be held concurrently with any other election or shall be consolidated therewith, the resolution calling the election hereunder need not designate precincts or polling places or the names of officers of election, but shall contain reference to the act or order calling such other election and fixing the precincts and polling places and appointing election officers therefrom. The resolution calling the election shall prescribe an official notice of election, which notice shall be published once a week for two (2) consecutive weeks, the last publication of which shall be at least ten (10) days prior to the date set for said election, in a newspaper of general circulation printed and published within the district, and no other or further notice of such election or publication of the names of election officers or of the precincts or polling places need be given or made.

(3) The respective election boards shall conduct the election in their respective precincts in the manner prescribed by law for the holding of district elections to the extent the same shall apply and shall make their returns to the district secretary. At any regular or special meeting of the board held not earlier than five (5) days following the date of such election, the returns shall be canvassed and the results declared.

(4) 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 ground water rights of the district, such fraction computed according to cubic feet per second, 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. 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.

Approved March 22, 2016

CHAPTER 113
(S.B. No. 1225)

AN ACT

RELATING TO GROUND WATER DISTRICTS; AMENDING SECTION 42-5233, IDAHO CODE, TO PROVIDE THAT CERTAIN ASSESSMENTS TO REPAY DEBT MUST BE APPROVED AT AN ELECTION; AMENDING SECTION 42-5234, IDAHO CODE, TO PROVIDE THAT CERTAIN OBLIGATIONS OR CONTRACT INDEBTEDNESS MUST BE SUBMITTED TO A VOTE OF QUALIFIED ELECTORS IN THE DISTRICT; AND AMENDING SECTION 42-5235, IDAHO CODE, TO REVISE PROVISIONS REGARDING JUDICIAL EXAMINATION PRIOR TO INCURRING INDEBTEDNESS.

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

SECTION 1. That Section 42-5233, Idaho Code, be, and the same is hereby amended to read as follows:

42-5233. POWER TO INCUR INDEBTEDNESS -- ASSESSMENTS TO SECURE REPAYMENT -- WARRANTS. (1) In order to secure funds for the mitigation plan or plans for the district, the board of directors may, by resolution duly adopted and entered upon the minutes, incur indebtedness by contract with a money lending institution; provided however, that the term of such indebtedness shall not exceed thirty (30) years. To secure the repayment of any indebtedness so incurred, the board shall levy assessments over the term of the indebtedness in amounts sufficient to repay the interest and principal as it falls due. Such assessments shall be levied in the manner and shall be subject to the limitations set forth in section 42-5232, Idaho Code, and. Assessments to repay debt with a term exceeding one (1) year may be levied only if the indebtedness has been approved at an election pursuant to sections 42-5234 through 42-5238, Idaho Code.

(2) Notwithstanding the provisions of subsection (1) of this section, the board of directors may, before the collection of the first assessment, incur indebtedness for the purpose of organization, or for any of the purposes of this chapter, and cause warrants of the district to issue therefor, provided that the total dollar amount of the warrants authorized to be issued shall not exceed three dollars (\$3.00) for each two-hundredths (.02) of a cubic foot per second of ground water authorized to be diverted and used upon lands or facilities located within the district. Following the collection of the first assessment, the board of directors may at any time issue warrants of the district for the purpose of paying claims of indebtedness against the district, including salaries of officers and employees, not to exceed the district's anticipated revenue.

(3) The warrants herein authorized shall be in form and substance the same as county warrants or as nearly 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 endorse thereon the day of presentation for payment with the additional endorsement 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 sufficient funds are available for that purpose to advertise in a newspaper in the county in which the district is situated requiring the presentation to the treasurer for payment of as many of the outstanding warrants as are able to be paid. Ten (10) days after the first publication of said notice by the treasurer calling in any of said out-

standing 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 endorsement.

SECTION 2. That Section 42-5234, Idaho Code, be, and the same is hereby amended to read as follows:

42-5234. ELECTION FOR INDEBTEDNESS -- REFERENDUM PETITION. (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 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. If any obligation or contract indebtedness has a repayment term exceeding one (1) year, tThe board shall submit the obligation or contract indebtedness in the proposed resolution to a vote of the qualified electors of the district as defined in section 42-5210, 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 ground water rights equal not less than ten percent (10%), measured in cubic feet per second, of the aggregate ground 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, 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.

(2) Any election for indebtedness required to be held hereunder shall be called by resolution, which resolution shall also fix the date upon which such election shall be held, the manner of holding the same and the method of voting for or against the incurring of the indebtedness. Such resolution shall also fix the compensation to be paid the officers of the election and shall designate the precincts and polling places and shall appoint for each polling place, from each precinct from the electors thereof, the officers of such election, which officers shall consist of three (3) judges, one (1) of whom shall act as clerk, who shall constitute a board of election for each polling place. The description of precincts may be made by reference to any order or orders of the county commission of the county or counties in which the district or any part thereof is situated, or by reference to any previous order, or resolution of the board or by detailed description of such precincts. Precincts established by the county commissions of the various counties may be consolidated for special elections held hereunder. In the event any such election shall be called to be held concurrently with any other election or shall be consolidated therewith, the resolution calling the election hereunder need not designate precincts or polling places or the names of officers of election, but shall contain reference to the act or order calling such other election and fixing the precincts and polling places and appointing election officers therefrom. The resolution calling the election shall prescribe an official notice of election, which notice

shall be published once a week for two (2) consecutive weeks, the last publication of which shall be at least ten (10) days prior to the date set for said election, in a newspaper of general circulation printed and published within the district, and no other or further notice of such election or publication of the names of election officers or of the precincts or polling places need be given or made.

(3) The respective election boards shall conduct the election in their respective precincts in the manner prescribed by law for the holding of district elections to the extent the same shall apply and shall make their returns to the district secretary. At any regular or special meeting of the board held not earlier than five (5) days following the date of such election, the returns shall be canvassed and the results declared.

(4) 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 ground water rights of the district, such fraction computed according to cubic feet per second, 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. 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.

SECTION 3. That Section 42-5235, Idaho Code, be, and the same is hereby amended to read as follows:

42-5235. JUDICIAL EXAMINATION. (1) Prior to the incurring of indebtedness with a repayment term exceeding one (1) year, the board shall file a petition in the district court of the county in which the office of the board is located, pursuant to the provisions of sections 43-406 through 43-408, Idaho Code, as if the district were an irrigation district. Whenever any district which is required to file a petition hereunder has or proposes to enter into a contract or contracts with one (1) or more districts pursuant to law, and such other district or districts is authorized or required to bring a confirmation proceeding or proceedings pursuant to the provisions of section 43-406 or section 43-1808, Idaho Code, with respect to such contracts or the levy of assessments or the apportionment of costs, the boards of each of such other districts shall 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. 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 by mailing, and by publication in at least one (1) newspaper published and of general circulation within the boundaries of each district joining in the petition, or if no newspaper is so published within any district, then in a newspaper published in the same county in which any part of such district is located which is of general circulation in such district, pursuant to and in accordance with the requirements of section 43-407, Idaho Code, as if the district

were an irrigation district under the seal thereof, 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.

(2) Any ground 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 Idaho rules of civil procedure shall govern in matters of pleading and practice where not otherwise specified herein. The court shall disregard any error, irregularity or omission which does not affect the substantial rights of the parties. Except as provided herein, the provisions of sections 43-406 through 43-408, Idaho Code, shall apply to the proceeding herein authorized as though the ground water district were an irrigation district.

Approved March 22, 2016

CHAPTER 114
(S.B. No. 1280, As Amended)

AN ACT

RELATING TO IDAHO PUBLIC INSTITUTIONS OF HIGHER EDUCATION AND RESIDENCY REQUIREMENTS; AMENDING SECTION 33-3717B, IDAHO CODE, TO REVISE A DEFINITION, TO REVISE PROVISIONS RELATING TO RESIDENCY REQUIREMENTS FOR STUDENTS OF AN IDAHO PUBLIC INSTITUTION OF HIGHER EDUCATION AND TO MAKE TECHNICAL CORRECTIONS.

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

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

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

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

domicile in the state of Idaho for at least twelve (12) months prior to the opening day of the term for which the student matriculates.

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

~~(c) Subject to subsection (2) of this section, a~~Any student who is a graduate of an accredited secondary school in the state of Idaho pursuant to section 33-119, Idaho Code, is domiciled in Idaho, and who matriculates at a college or university in the state of Idaho during the term an Idaho public institution of higher education within six (6) years immediately following such secondary school graduation regardless of the residence domicile of the student's parent or guardian, or any student who completes six (6) years of elementary and secondary education in Idaho, is domiciled in Idaho, and matriculates at an Idaho public institution of higher education within six (6) years immediately following completion of secondary education.

(d) The spouse of a person who is classified, or is eligible for classification, as a resident of the state of Idaho for the purposes of attending a college or university an Idaho public institution of higher education, except that a student who was enrolled as a full-time student in any term during the twelve (12) month period before the term in which the student proposes to enroll as a resident student must independently establish domicile under subsection (2) of this section.

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

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

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

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

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

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

~~summer breaks or breaks between semesters or quarters, that occur prior to the receipt of the postsecondary degree.~~

~~(k) A student who is a member of an Idaho Native American Indian tribe, whose traditional and customary tribal boundaries included portions of the state of Idaho, or whose Indian tribe was granted reserved lands within the state of Idaho. The state board of education shall maintain a list of tribes who meet these requirements.~~

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

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

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

~~(3) The establishment of a new domicile in Idaho by a person formerly domiciled in another state has occurred if such person has resided in Idaho for the prior twelve (12) months and is physically present in Idaho primarily for purposes other than educational and can show satisfactory proof that such person is without a present intention to return to such other state or to acquire a domicile at some other place outside of Idaho. A student who is enrolled for more than eight (8) hours as a full-time student in any semester or quarter term during a the prior twelve (12) month period shall be presumed to be in Idaho for primarily educational purposes. Such period of enrollment shall not be counted toward the establishment of a bona fide domicile in this state unless the student proves, in fact, establishment of a bona fide domicile in this state primarily for purposes other than educational. Institutions determining whether a student is domiciled in the state of Idaho primarily for purposes other than educational shall consider, but shall not be limited to, the following factors: can provide proof of full-time employment in Idaho for twelve (12) months before the term in which the student proposes to enroll as a resident student and the filing of an Idaho state resident income tax return for the prior tax year.~~

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

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

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

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

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

~~(i) Registration and payment of Idaho taxes or fees on a motor vehicle, mobile home, travel trailer or other item of personal prop-~~

~~erty for which state registration and the payment of a state tax or fee is required;~~

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

~~(iii) Holding an Idaho driver's license;~~

~~(iv) Evidence of abandonment of a previous domicile;~~

~~(v) Presence of household goods in Idaho;~~

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

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

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, the following students shall be considered nonresidents for tuition purposes:

(a) A student attending an Idaho public institution of higher education with financial assistance provided by another country or governmental unit or agency thereof. Such nonresidency shall continue for twelve (12) months after the completion of the last semester for which such assistance was provided.

(b) A student who is not a United States citizen, unless lawfully present in the United States.

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

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

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

(7) For students who apply for special graduate and professional programs including, but not limited to, the WWAMI (Washington, Wyoming, Alaska, Montana, Idaho) regional medical program, the WICHE student exchange programs, ~~Creighton university school of dental science Idaho dental education program~~, the university of Utah college school of medicine, and the Washington-Idaho-Utah (W-I-U) regional program in veterinary medicine, no applicant shall be certified or otherwise designated as a beneficiary of such special program who ~~has~~ does not ~~been a~~ meet ~~the definition of resident of the state of Idaho for at least one (1) calendar year previous to the application date~~ student as set forth in subsection (1) of this section.

Approved March 22, 2016

CHAPTER 115
(S.B. No. 1367)

AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF HUMAN RESOURCES FOR FISCAL YEAR 2017; 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, 2016, through June 30, 2017:

FOR:

Personnel Costs	\$1,158,400
Operating Expenditures	<u>649,800</u>
TOTAL	\$1,808,200

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, 2016, through June 30, 2017, 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 Career 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 2017 within the Related Services Program of the Division of Career Technical Education, less any unencumbered balance remaining on June 30, 2016.

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 leave the current salary structure in place for fiscal year 2017 and continue the job classifications that are currently on payline exception to address specific employee recruitment or retention issues.

Law without signature.

CHAPTER 116
(H.B. No. 333)

AN ACT

RELATING TO OPTOMETRISTS; AMENDING SECTION 54-1522, IDAHO CODE, TO REVISE LICENSE RENEWAL PROVISIONS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-1522, Idaho Code, be, and the same is hereby amended to read as follows:

54-1522. LICENSES -- ISSUANCE -- RENEWAL AND REINSTATEMENT -- RECORDING AND DISPLAY. If the applicant shall pass a satisfactory examination and shall show that he is a person of good moral character and that he possesses the qualifications required in this chapter to entitle him to be licensed as an optometrist, then, upon request, such applicant shall be entitled to a license authorizing the applicant to practice optometry in the state of Idaho. All licenses to practice optometry shall be issued in the name of the Idaho state board of optometry with the seal thereof attached. ~~All licenses issued under the provisions of this chapter shall be subject to annual renewal and shall expire unless renewed in the manner prescribed by the board regarding applications for renewal, continuing education, and fees.~~ License renewal and reinstatement shall be in accordance with section 67-2614, Idaho Code. ~~The failure to timely renew a license under this section shall require the payment of a fee of one hundred fifty dollars (\$150) for a license renewal in addition to other fees which may be required, or other sanctions which may be imposed under this chapter.~~ Every person to whom a license is granted shall display the same, or a copy of the same, certified to by the board in a conspicuous part of his office wherein the practice of optometry is conducted. It shall be unlawful for any person to practice optometry in the state of Idaho before complying with these requirements.

Approved March 22, 2016

CHAPTER 117
(H.B. No. 334)

AN ACT

RELATING TO PHYSICAL THERAPY; REPEALING SECTION 54-2214, IDAHO CODE, RELATING TO LICENSE RENEWAL, FEES AND REPORTING REQUIREMENTS; AND AMENDING SECTION 54-2215, IDAHO CODE, TO REVISE PROVISIONS REGARDING LICENSE RENEWAL AND REINSTATEMENT.

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

SECTION 1. That Section 54-2214, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 54-2215, Idaho Code, be, and the same is hereby amended to read as follows:

54-2215. RENEWAL AND REINSTATEMENT OF LICENSE. ~~All licenses issued under the provisions of this chapter shall be subject to annual renewal and shall expire unless renewed in the manner prescribed by the board regarding applications for renewal, continuing education and fees.~~ License renewal and reinstatement shall be in accordance with A licensee must renew his li-

cense annually as provided in section 67-2614, Idaho Code, and may reinstate his license within five (5) years after expiration as provided in section 67-2614, Idaho Code.

Approved March 22, 2016

CHAPTER 118
(H.B. No. 355)

AN ACT

RELATING TO THE IDAHO OFFICE OF EMERGENCY MANAGEMENT; AMENDING SECTION 21-104, IDAHO CODE, TO REPLACE A REFERENCE TO THE BUREAU OF HOMELAND SECURITY WITH THE IDAHO OFFICE OF EMERGENCY MANAGEMENT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 31-2229, IDAHO CODE, TO REPLACE REFERENCES TO THE BUREAU OF HOMELAND SECURITY WITH THE IDAHO OFFICE OF EMERGENCY MANAGEMENT; AMENDING SECTION 39-7103, IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-7104, IDAHO CODE, TO REPLACE A REFERENCE TO THE BUREAU OF HOMELAND SECURITY WITH THE IDAHO OFFICE OF EMERGENCY MANAGEMENT AND TO REPLACE A REFERENCE TO THE BUREAU WITH A REFERENCE TO THE OFFICE; AMENDING SECTION 39-7114A, IDAHO CODE, TO REPLACE A REFERENCE TO THE BUREAU OF HOMELAND SECURITY WITH THE IDAHO OFFICE OF EMERGENCY MANAGEMENT AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 46-1002, IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 46-1003, IDAHO CODE, TO REPLACE REFERENCES TO THE BUREAU OF HOMELAND SECURITY WITH THE IDAHO OFFICE OF EMERGENCY MANAGEMENT; AMENDING SECTION 46-1004, IDAHO CODE, TO REPLACE REFERENCES TO THE BUREAU OF HOMELAND SECURITY WITH THE IDAHO OFFICE OF EMERGENCY MANAGEMENT; AMENDING SECTION 46-1005, IDAHO CODE, TO PROVIDE FOR A COORDINATING OFFICER, TO PROVIDE FOR THE HEAD OF THE OFFICE AND TO PROVIDE THAT IF THE ADJUTANT GENERAL SERVES AS THE CHIEF OF THE OFFICE HE SHALL RECEIVE NO ADDITIONAL COMPENSATION; AMENDING SECTION 46-1006, IDAHO CODE, TO REPLACE REFERENCES TO THE BUREAU WITH REFERENCES TO THE OFFICE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 46-1008, IDAHO CODE, TO REPLACE A REFERENCE TO THE BUREAU OF HOMELAND SECURITY WITH THE IDAHO OFFICE OF EMERGENCY MANAGEMENT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 46-1009, IDAHO CODE, TO REPLACE REFERENCES TO THE BUREAU WITH REFERENCES TO THE OFFICE; AMENDING SECTION 46-1012, IDAHO CODE, TO REPLACE REFERENCES TO THE BUREAU WITH REFERENCES TO THE OFFICE; AMENDING SECTION 46-1013, IDAHO CODE, TO REPLACE REFERENCES TO THE BUREAU WITH REFERENCES TO THE OFFICE; AMENDING SECTION 46-1014, IDAHO CODE, TO REPLACE REFERENCES TO THE BUREAU WITH REFERENCES TO THE OFFICE; AMENDING SECTION 46-1015, IDAHO CODE, TO REPLACE REFERENCES TO THE BUREAU WITH REFERENCES TO THE OFFICE; AMENDING SECTION 46-1017, IDAHO CODE, TO REPLACE A REFERENCE TO THE BUREAU WITH A REFERENCE TO THE OFFICE; AMENDING SECTION 46-1025, IDAHO CODE, TO REPLACE REFERENCES TO THE BUREAU OF HOMELAND SECURITY WITH THE IDAHO OFFICE OF EMERGENCY MANAGEMENT; AMENDING SECTION 46-1027, IDAHO CODE, TO REPLACE REFERENCES TO THE BUREAU OF HOMELAND SECURITY WITH THE IDAHO OFFICE OF EMERGENCY MANAGEMENT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 46-1211, IDAHO CODE, TO REPLACE A REFERENCE TO THE BUREAU OF HOMELAND SECURITY WITH THE IDAHO OFFICE OF EMERGENCY MANAGEMENT; AMENDING SECTION 67-5806, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AND PROVIDING A SUNSET DATE.

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

SECTION 1. That Section 21-104, Idaho Code, be, and the same is hereby amended to read as follows:

21-104. DEVELOPMENT OF AERONAUTICS. (a) General supervision. The department shall have general supervision over aeronautics within this state. It is empowered and directed to encourage, foster, and assist in the development of aeronautics in this state and to encourage the establishment of airports and air navigation facilities. It shall cooperate with and assist the federal government, the municipalities of this state, and other persons in the development of aeronautics, and shall seek to coordinate the aeronautical activities of these bodies and persons. Municipalities are authorized to cooperate with the department in the development of aeronautics and aeronautics facilities in this state.

(b) Aerial search. Aerial search operations for lost aircraft and airmen shall be coordinated by the department, division of aeronautics, under the direction and supervision of the chief of the ~~bureau of homeland security Idaho office of emergency management~~ within the military division.

SECTION 2. That Section 31-2229, Idaho Code, be, and the same is hereby amended to read as follows:

31-2229. SEARCH AND RESCUE. (1) For the purpose of this section:

(a) "Aerial search" means a response by the ~~bureau of homeland security Idaho office of emergency management~~ and the Idaho transportation department's division of aeronautics to a missing or overdue aircraft or airman.

(b) "Rescue" means a response by the sheriff to recover lost, missing, injured, impaired or incapacitated persons in imminent danger of injury or death.

(c) "Search" means a response by the sheriff to locate an overdue, missing or lost person.

(2) The sheriff of each county shall:

(a) Be the official responsible for command of all search and rescue operations within the county;

(b) Prepare and keep current a plan to command the search and rescue capabilities and resources available within the county.

(3) All aerial search assets shall be under the coordination of the Idaho transportation department's division of aeronautics. The ground aspects of the search and rescue of lost aircraft and airmen shall be under the supervision of the county sheriff, in coordination with the chief of the ~~bureau of homeland security Idaho office of emergency management~~ and the administrator of the division of aeronautics.

(4) Nothing in subsection (2) of this section shall apply to search and rescue operations within the incorporated limits of any city when the city performs such service.

(5) Nothing in subsection (2) of this section shall apply to the rescue of entrapped or injured persons where their location is known to be within a fire district where the fire district performs such service.

(6) Nothing contained in subsection (2) of this section shall apply to the removal of entrapped or injured persons where the person's location is known to a local EMS agency licensed by the state of Idaho.

SECTION 3. That Section 39-7103, Idaho Code, be, and the same is hereby amended to read as follows:

39-7103. DEFINITIONS. As used in this chapter:

(1) "~~Bureau~~" means ~~the bureau of homeland security within the military division.~~

~~(2)~~ "Emergency" means a release or threat of release ~~which that,~~ in the reasonable judgment of the local emergency response authority in consultation with the ~~bureau office~~, threatens immediate harm to the environment or the health and safety of any individual and ~~which that~~ requires immediate ac-

tion for the containment or control of a hazardous or potentially hazardous substance to prevent, minimize or mitigate harm to the public health, safety or the environment which may result if action is not taken.

(32) "Hazardous substance incident" means an emergency circumstance requiring a response by the state emergency response team or the local emergency response authority to monitor, assess and evaluate a release or threat of a release of a hazardous or potentially hazardous substance. A hazardous substance incident may require containment or confinement or both, but does not include site cleanup or remediation efforts after the incident commander has determined the emergency has ended.

(43) "Hazardous substance" means:

(a) Any "hazardous substance" within the scope of section 101(14) of the federal comprehensive environmental response, compensation and liability act (CERCLA), 42 U.S.C. 9601(14);

(b) Any hazardous substance within the scope of section 104 of the federal hazardous materials transportation act, 49 U.S.C. 1803, and the federal department of transportation regulations promulgated pursuant thereto;

(c) Any extremely hazardous substance within the scope of section 302 of the federal emergency planning and community right-to-know act, 42 U.S.C. 11002; and

(d) Any explosive or weapon of mass destruction utilized or threatened to be utilized in an act of terrorism, crime or other threat to public safety.

(54) "Incident commander" is the person in charge of all responders to a hazardous substance incident and who is identified in the Idaho hazardous materials emergency incident command and response plan or the private emergency response plan.

(65) "Local emergency response authority" means those persons designated under section 39-7105, Idaho Code, by the city, county, or the military division to be first responders to hazardous substance incidents.

(76) "Military division" means the military division of the office of the governor.

(7) "Office" means the Idaho office of emergency management within the military division.

(8) "Person" means any individual, public or private corporation, partnership, joint venture, association, firm, trust, estate, the United States or any department, institution, or agency thereof, the state or any department, institution, or agency thereof, any municipal corporation, county, city, or other political subdivision of the state, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

(9) "Potentially hazardous substance" means any substance which in the reasonable judgment of the local emergency response authority in consultation with the bureau office is likely a hazardous substance.

(10) "Private emergency response plan" means a plan designed to respond to emergency releases of hazardous or potentially hazardous substances at a specific facility or under a specific set of conditions.

(11) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, escaping, dumping or disposing of a hazardous or potentially hazardous substance, or the threat of the same, into the environment. "Release" does not include any discharge of a hazardous substance into the environment which is authorized by limits and conditions in a federal or state permit relating to the protection of public health or the environment so long as the permitted activity from which the release occurs is in compliance with applicable limits and conditions of the permit.

(12) "State emergency response team" means one (1) of the state emergency response teams authorized by the military division to respond to hazardous substance incidents.

(13) "Threat of release" means the release of a hazardous or potentially hazardous substance is likely.

SECTION 4. That Section 39-7104, Idaho Code, be, and the same is hereby amended to read as follows:

39-7104. MILITARY DIVISION -- POWERS AND DUTIES. (1) The military division through the ~~bureau of homeland security~~ Idaho office of emergency management shall implement the provisions of this chapter and direct the activities of its staff and, in so doing, the military division may:

(a) Through the bureau office, in accordance with the laws of the state, hire, fix the compensation, and prescribe the powers and duties of such other individuals, including consultants, emergency teams and committees, as may be necessary to carry out the provisions of this chapter.

(b) Create and implement state emergency response teams that have appropriately trained personnel and necessary equipment to respond to hazardous substance incidents. The military division shall enter into a written agreement with each entity or person providing equipment or services to a designated emergency response team. The teams shall be available and may respond to hazardous substance incidents at the direction of the military division or its designee or local incident commander.

(c) Contract with persons to meet state emergency response needs for the teams and response authorities.

(d) Advise, consult and cooperate with agencies of the state and federal government, other states and their state agencies, cities, counties, tribal governments and other persons concerned with emergency response and matters relating to and arising out of hazardous substance incidents.

(e) Encourage, participate in, or conduct studies, investigations, training, research, and demonstrations for and with state emergency response teams, local emergency response authorities and other interested persons.

(f) Collect and disseminate information relating to emergency response to hazardous substance incidents.

(g) Accept and administer loans, grants, or other funds or gifts, conditional or otherwise, made to the state for emergency response activities provided for in this chapter.

(h) Submit an annual report prior to February 1 to the governor and to the legislature concerning emergency response to hazardous substance incidents.

(i) Prepare, coordinate, implement and update a statewide hazardous materials incident command and response plan that coordinates state and local emergency response authorities to respond to hazardous substance incidents within the state for approval by the legislature. The plan shall address radiation, explosive and weapons of mass destruction incidents. The Idaho hazardous materials incident command and response plan shall be consistent with and a part of the Idaho state disaster plan provided in section 46-1006, Idaho Code, after legislative approval.

(2) The military division shall have the powers and duties of a state emergency response commission under the federal emergency planning and community right-to-know act, 42 U.S.C. section 11001 et seq.

(3) The military division may promulgate rules and procedures to govern reimbursement of claims pursuant to this chapter.

(4) All state agencies and institutions will cooperate and provide staff assistance to the military division in carrying out its duties under this chapter.

SECTION 5. That Section 39-7114A, Idaho Code, be, and the same is hereby amended to read as follows:

39-7114A. CIVIL AIR PATROL. (1) There is hereby established within the military division and the ~~bureau of homeland security~~ Idaho office of emergency management the Idaho directorate of civil air patrol. The mission of the directorate shall be to provide support for and facilitate the operation of the civil air patrol, Idaho wing, which shall be under the command and control of the duly appointed commanding officer of such wing.

(2) In consideration for services rendered to the state of Idaho by the directorate of civil air patrol, Idaho wing, the military division shall provide in-kind services to the directorate in the form of land use, ~~hanger~~ hangar facilities, mess and billeting facilities, office space and other entities when deemed necessary and when such facilities are available.

SECTION 6. That Section 46-1002, Idaho Code, be, and the same is hereby amended to read as follows:

46-1002. DEFINITIONS. As used in this act:

(1) "~~Bureau~~" means the ~~bureau of homeland security, military division of the office of the governor.~~

~~(2)~~ "Adjutant general" means the administrative head of the military division of the office of the governor.

(32) "Disaster" means occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including but not limited to fire, flood, earthquake, windstorm, wave action, volcanic activity, explosion, riot, or hostile military or paramilitary action and including acts of terrorism.

(43) "Emergency" means occurrence or imminent threat of a disaster or condition threatening life or property which that requires state emergency assistance to supplement local efforts to save lives and protect property or to avert or lessen the threat of a disaster.

(54) "Political subdivision" means any county, city, district, or other unit of state or local government.

(65) "Militia" means all members of the Idaho army and air national guard in the service of the state.

(6) "Office" means the Idaho office of emergency management within the military division.

(7) "Search and rescue" means the employment, coordination, and utilization of available resources and personnel in locating, relieving distress and preserving life of, and removing survivors from the site of a disaster, emergency or hazard to a place of safety in case of lost, stranded, entrapped, or injured persons.

(8) "Disaster emergency account" means the account created under this act for the purpose of paying obligations and expenses incurred by the state of Idaho during a declared state of disaster emergency.

(9) "Bureau of hazardous materials" means the former bureau of hazardous materials, which is now a part of the ~~bureau of homeland security~~ Idaho office of emergency management in the military division of the office of the governor.

SECTION 7. That Section 46-1003, Idaho Code, be, and the same is hereby amended to read as follows:

46-1003. POLICY AND PURPOSES. It is the policy of this state to plan and prepare for disasters and emergencies resulting from natural or man-made causes, enemy attack, terrorism, sabotage or other hostile action, and to implement this policy, it is found necessary:

(1) To create a ~~bureau of homeland security~~ an Idaho office of emergency management, to authorize the creation of local organizations for disaster preparedness in the political subdivisions of the state, and to authorize the state and political subdivisions to execute agreements and to cooperate with the federal government and the governments of other states.

(2) To prevent and reduce damage, injury, and loss of life and property resulting from natural or man-made catastrophes, riots, or hostile military or paramilitary action.

(3) To prepare assistance for prompt and efficient search, rescue, care, and treatment of persons injured, victimized or threatened by disaster.

(4) To provide for rapid and orderly restoration and rehabilitation of persons and property affected by disasters.

(5) To prescribe the roles of the governor, state agencies, and local governments in prevention of, preparation for, response to and recovery from disasters.

(6) To authorize and encourage cooperation in disaster prevention, preparedness, response and recovery.

(7) To provide for coordination of activities relating to disaster prevention, preparedness, response, and recovery by all state agencies, political subdivisions, and interstate, federal-state and Canadian activities in which the state and its political subdivisions may participate.

(8) To provide a disaster management system embodying all aspects of predisaster preparedness and postdisaster response.

(9) To provide for the payment of obligations and expenses incurred by the state of Idaho through the ~~bureau of homeland security~~ Idaho office of emergency management during a declared state of disaster emergency.

SECTION 8. That Section 46-1004, Idaho Code, be, and the same is hereby amended to read as follows:

46-1004. ~~BUREAU OF HOMELAND SECURITY~~ IDAHO OFFICE OF EMERGENCY MANAGEMENT CREATED. Within the military division of the office of governor, a ~~bureau of homeland security~~ an Idaho office of emergency management is established.

SECTION 9. That Section 46-1005, Idaho Code, be, and the same is hereby amended to read as follows:

46-1005. ~~CHIEF OF BUREAU COORDINATING OFFICER -- APPOINTMENT-- COMPENSATION SELECTION.~~ The bureau office may be headed by a the adjutant general as chief appointed of the military division, or by a coordinating officer selected by the adjutant general with the concurrence of the governor or the governor may appoint the adjutant general to serve as chief. The chief shall hold office at the pleasure of the governor and his compensation shall be fixed by the governor. If the adjutant general is serves as chief of the office, he or she shall receive no additional compensation ~~for serving as chief.~~

SECTION 10. That Section 46-1006, Idaho Code, be, and the same is hereby amended to read as follows:

46-1006. POWERS AND DUTIES OF CHIEF AND BUREAU OFFICE. (1) In all matters of disaster services, the adjutant general shall represent the governor and shall, on behalf of the governor, coordinate the activities of all of the state agencies in disaster services. The bureau office shall have a coordinating officer and other professional, technical, secretarial and clerical employees necessary for the performance of its functions.

(2) The bureau office shall prepare, maintain and update a state disaster plan based on the principle of self-help at each level of government. The plan may provide for:

- (a) Prevention and minimization of injury and damage caused by disaster;
- (b) Prompt and effective response to disaster;
- (c) Emergency relief;
- (d) Identification of areas particularly vulnerable to disasters;
- (e) Assistance to local officials in designing local emergency action plans;
- (f) Authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage, or loss from disaster;
- (g) Preparation and distribution to the appropriate state and local officials of catalogs of federal, state and private assistance programs;
- (h) Assistance to local officials in designing plans for search, rescue, and recovery of persons lost, entrapped, victimized, or threatened by disaster;
- (i) Organization of manpower and chains of command;
- (j) Coordination of federal, state, and local disaster activities;
- (k) Coordination of the state disaster plan with the disaster plans of the federal government.

(3) The bureau office shall participate in the development and revision of local and intergovernmental disaster plans. To this end, it may employ or otherwise secure the services of professional and technical personnel to provide expert assistance to political subdivisions, their disaster agencies, and intergovernmental planning and disaster agencies. This personnel shall consult with subdivisions and agencies and shall make field examinations of the areas, circumstances, and conditions to which particular local and intergovernmental disaster plans are intended to apply.

(4) In preparing and maintaining the state disaster plan, the bureau office shall seek the advice and assistance of local government, business, labor, industry, agriculture, civic, and volunteer organizations and community leaders. In advising local and intergovernmental agencies, the bureau office shall encourage them also to seek advice from these sources.

(5) The state disaster plan or any part thereof may be incorporated in rules of the bureau office promulgated subject to chapter 52, title 67, Idaho Code.

(6) The bureau office shall:

- (a) Promulgate standards and criteria for local and intergovernmental disaster plans;
- (b) Periodically review local and intergovernmental disaster plans;
- (c) Assist political subdivisions, their disaster agencies, and intergovernmental disaster agencies to establish and operate training programs and programs of public information;
- (d) Plan and make arrangements for the availability and use of any private facilities, services, and property and, if necessary and if in fact used, provide for payment for use under terms and conditions agreed upon;
- (e) Prepare executive orders and proclamations for issuance by the governor, as necessary or appropriate in coping with disasters;
- (f) Cooperate with the federal government and any public or private agency or entity in achieving any purpose of this act and in implementing programs for disaster prevention, preparation, response, and recovery;
- (g) Maintain a register of search and rescue organizations, units, teams, or individuals operating within the state;
- (h) Assist search and rescue units to accomplish standards for equipment, training and proficiency;

- (i) Coordinate search and rescue of lost aircraft and airmen pursuant to section 21-114, Idaho Code, with aerial search operations coordinated by the Idaho transportation department, division of aeronautics;
- (j) In addition to disaster prevention measures as included in the state, local, and intergovernmental disaster plans, the bureau office shall consider on a continuing basis steps that could be taken to prevent or reduce the harmful consequences of disasters. The governor from time to time may make recommendations to the legislature, local governments and other appropriate public and private entities as may facilitate measures for prevention or reduction of the harmful consequences of disasters; and
- (k) Not limit the powers and duties of the department of transportation, division of aeronautics, as provided by sections 21-114 and 21-118, Idaho Code.

SECTION 11. That Section 46-1008, Idaho Code, be, and the same is hereby amended to read as follows:

46-1008. THE GOVERNOR AND DISASTER EMERGENCIES. (1) Under this act, the governor may issue executive orders, proclamations and amend or rescind them. Executive orders and proclamations have the force and effect of law.

(2) A disaster emergency shall be declared by executive order or proclamation of the governor if he finds a disaster has occurred or that the occurrence or the threat thereof is imminent. The state of disaster emergency shall continue until the governor finds that the threat or danger has passed, or the disaster has been dealt with to the extent that emergency conditions no longer exist, and when either or both of these events occur, the governor shall terminate the state of disaster emergency by executive order or proclamation; provided, however, that no state of disaster emergency may continue for longer than thirty (30) days unless the governor finds that it should be continued for another thirty (30) days or any part thereof. The legislature by concurrent resolution may terminate a state of disaster emergency at any time. Thereupon, the governor shall issue an executive order or proclamation ending the state of disaster emergency. All executive orders or proclamations issued under this subsection shall indicate the nature of the disaster, the area or areas threatened, the area subject to the proclamation, and the conditions which are causing the disaster. An executive order or proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and unless the circumstances attendant upon the disaster prevent or impede, be promptly filed with the ~~bureau of homeland security~~ Idaho office of emergency management, the office of the secretary of state and the office of the recorder of each county where the state of disaster emergency applies.

(3) An executive order or proclamation of a state of disaster emergency shall activate the disaster response and recovery aspects of the state, local and intergovernmental disaster emergency plans applicable to the political subdivision or area in question and be authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to this act or any other provision of law relating to disaster emergencies.

(4) During the continuance of any state of disaster emergency, the governor is commander-in-chief of the militia and may assume command of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or regulations, but nothing herein restricts his authority to do so by orders issued at the time of the disaster emergency.

(5) In addition to any other powers conferred upon the governor by law, he may:

(a) Suspend the provisions of any regulations prescribing the procedures for conduct of public business that would in any way prevent, hinder, or delay necessary action in coping with the emergency;

(b) Utilize all resources of the state, including, but not limited to, those sums in the disaster emergency account as he shall deem necessary to pay obligations and expenses incurred during a declared state of disaster emergency;

(c) Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency services;

(d) Subject to any applicable requirements for compensation under section 46-1012, Idaho Code, commandeer or utilize any private property, real or personal, if he finds this necessary to cope with the disaster emergency;

(e) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if he deems this action necessary for the preservation of life or other disaster mitigation, response, or recovery;

(f) Prescribe routes, modes of transportation, and destinations in connection with evacuation;

(g) Control ingress and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises therein;

(h) Suspend or limit the sale, dispensing or transportation of alcoholic beverages, explosives, and combustibles;

(i) Make provision for the availability and use of temporary emergency housing.

(6) Whenever an emergency or a disaster has been declared to exist in Idaho by the president under the provisions of the disaster relief act of 1974 (public law 93-288, 42 U.S.C. 5121), as amended, the governor may:

(a) Enter into agreements with the federal government for the sharing of disaster recovery expenses involving public facilities;

(b) Require as a condition of state assistance that a local taxing district be responsible for paying forty percent (40%) of the nonfederal share of costs incurred by the local taxing district which that have been determined to be eligible for reimbursement by the federal government, provided that the total local share of eligible costs for a taxing district shall not exceed ten percent (10%) of the taxing district's tax charges authorized by section 63-802, Idaho Code;

(c) Obligate the state to pay the balance of the nonfederal share of eligible costs within local taxing entities qualifying for federal assistance; and

(d) Enter into agreements with the federal government for the sharing of disaster assistance expenses to include individual and family grant programs.

(7) During the continuance of any state of disaster emergency, neither the governor nor any agency of any governmental entity or political subdivision of the state shall impose restrictions on the lawful possession, transfer, sale, transport, storage, display or use of firearms or ammunition.

SECTION 12. That Section 46-1009, Idaho Code, be, and the same is hereby amended to read as follows:

46-1009. LOCAL AND INTERGOVERNMENTAL DISASTER AGENCIES AND SERVICES. (1) Each county within this state shall be within the jurisdiction of and served by the bureau office and by a county or intergovernmental agency responsible for disaster preparedness and coordination of response.

(2) Each county shall maintain a disaster agency or participate in an intergovernmental disaster agency which, except as otherwise provided under this act, has jurisdiction over and serves the entire county, or shall have a liaison officer appointed by the county commissioners designated to facilitate the cooperation and protection of that subdivision in the work of disaster prevention, preparedness, response and recovery.

(3) The chairman of the board of county commissioners of each county in the state shall notify the bureau office of the manner in which the county is providing or securing disaster planning and emergency services. The chairman shall identify the person who heads the agency or acts in the capacity of liaison from which the service is obtained, and furnish additional information relating thereto as the bureau office requires.

(4) Each county and/or intergovernmental agency shall prepare and keep current a local or intergovernmental disaster emergency plan for its area.

(5) The county or intergovernmental disaster agency, as the case may be, shall prepare and distribute to all appropriate officials in written form a clear and complete statement of the emergency responsibilities of all local agencies and officials and of the disaster chain of command.

SECTION 13. That Section 46-1012, Idaho Code, be, and the same is hereby amended to read as follows:

46-1012. COMPENSATION. (1) Each person within this state shall conduct himself and keep and manage his affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the state, other political subdivisions, and the public to successfully meet disaster emergencies. This obligation includes appropriate personal service and use or restriction on the use of property in time of disaster emergency. This act neither increases nor decreases these obligations but recognizes their existence under the constitution and statutes of this state. Compensation for services or for the taking or use of property shall be only to the extent that obligations recognized herein are exceeded in a particular case and then only to the extent that the claimant may not be deemed to have volunteered his services or property without compensation.

(2) No personal services may be compensated by the state or any subdivision or agency thereof, except pursuant to statute or local law or ordinance.

(3) Compensation for property shall be only if the property was commandeered or otherwise used in coping with a disaster emergency and its use or destruction was ordered by the governor or his representative.

(4) Any person claiming compensation for the use, damage, loss, or destruction of property under this act shall file a claim therefor with the bureau office in the form and manner the bureau office provides.

(5) Unless the amount of compensation on account of property damaged, lost, or destroyed is agreed upon between the claimant and the bureau office, the amount of compensation shall be calculated in the same manner as compensation due for taking of property pursuant to the condemnation laws of this state.

SECTION 14. That Section 46-1013, Idaho Code, be, and the same is hereby amended to read as follows:

46-1013. COMMUNICATIONS. The bureau office shall ascertain what means exist for rapid and efficient communications in times of disaster emergencies. The bureau office shall consider the desirability of supplementing these communication resources or of integrating them into a comprehensive state or state-federal telecommunications or other communication system or network. The bureau office shall make recommendations to the governor as appropriate.

SECTION 15. That Section 46-1014, Idaho Code, be, and the same is hereby amended to read as follows:

46-1014. MUTUAL AID. (1) Political subdivisions not participating in the intergovernmental arrangements pursuant to this act nevertheless shall be encouraged and assisted by the bureau office to conclude suitable arrangement for furnishing mutual aid in coping with disasters. The arrangements shall include provisions of aid by persons and units in public employ.

(2) In passing upon local disaster plans, the bureau office shall consider whether they contain adequate provisions for the rendering and receipt of mutual aid.

SECTION 16. That Section 46-1015, Idaho Code, be, and the same is hereby amended to read as follows:

46-1015. WEATHER MODIFICATION. The bureau office shall keep continuously appraised of weather conditions which present danger of precipitation or other climatic activity severe enough to constitute a disaster. If the bureau office determines that precipitation that may result from weather modification operations, either by itself or in conjunction with other precipitation or climatic conditions or activity, would create or contribute to the severity of a disaster, it shall direct the officer or agency empowered to issue permits for weather modification operations to suspend the issuance of the permits. Thereupon, no permits may be issued until the bureau office informs the officer or agency that the danger has passed.

SECTION 17. That Section 46-1017, Idaho Code, be, and the same is hereby amended to read as follows:

46-1017. IMMUNITY. Neither the state, nor the bureau office, nor any political subdivision thereof nor other agencies, nor, except in cases of willful misconduct, the agents, employees or representatives of any of them engaged in any civil defense, disaster or emergency and the planning or preparation for the same, or disaster or emergency relief activities, acting under proper authority, nor, except in cases of willful misconduct or gross negligence, any person, firm, corporation or entity under contract with them to provide equipment or work to be used in civil defense, disaster or emergency planning, preparation or relief, while complying with or attempting to comply with this act or any rule or regulation promulgated pursuant to the provisions of the act, shall be liable for the death of or any injury to persons or damage to property as a result of such activity. The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this act or under the worker's compensation law or under any pension law, nor the right of any such person to receive any benefits or compensation under any act of congress.

SECTION 18. That Section 46-1025, Idaho Code, be, and the same is hereby amended to read as follows:

46-1025. FEDERAL FUNDS TO POLITICAL SUBDIVISIONS. (1) Annually, the chief of the Idaho ~~bureau of homeland security~~ office of emergency management shall prepare a written summary of all grants received from the federal emergency management agency to be distributed to the forty-four (44) county commission chairmen. The summary shall list those federal funds that are eligible for direct assistance to local disaster agencies in accordance with section 46-1009(2), Idaho Code, and those funds that are limited to use by the state and not eligible for direct assistance to local disaster agencies.

(2) Not less than thirty-four percent (34%) of the eligible direct assistance funds shall be subgranted by the Idaho ~~bureau of homeland security office of emergency management~~ to the local disaster agencies. Funds shall be distributed to the local disaster agencies subject to the provisions and rules of the Idaho ~~bureau of homeland security office of emergency management~~, the federal emergency management agency through the Robert T. Stafford Act, title 44 of the code of federal regulations, and pertinent circulars published by the United States office of management and budget.

(3) Direct financial assistance to the local disaster agencies is not an entitlement. Subgrants are awarded through the Idaho ~~bureau of homeland security office of emergency management~~ for the purpose of assisting counties to achieve goals and objectives outlined in an approved county grant proposal.

SECTION 19. That Section 46-1027, Idaho Code, be, and the same is hereby amended to read as follows:

46-1027. MILITARY DIVISION -- ~~BUREAU OF HOMELAND SECURITY IDAHO OFFICE OF EMERGENCY MANAGEMENT~~ -- ADDITIONAL POWERS AND DUTIES. (1) The military division through the ~~bureau of homeland security Idaho office of emergency management~~ shall implement the provisions of this section and section 46-1026, Idaho Code, and in so doing, the military division may:

(a) Through the ~~bureau of homeland security Idaho office of emergency management~~, in accordance with the laws of the state, hire, fix the compensation and prescribe the powers and duties of such other individuals including consultants, emergency teams and committees as may be necessary to carry out the provisions of this section and section 46-1026, Idaho Code.

(b) Identify and implement ITR and specialty rescue teams that have appropriately trained personnel and necessary equipment to respond to technical rescue incidents and emergency disaster events. The military division shall enter into a written joint exercise of powers agreement with each entity or person providing equipment or services to a designated ITR or specialty rescue team. The teams shall be available and may respond to technical rescue incidents at the direction of the military division or its designee. When responding solely at the direction of the local incident commander, no cost recovery from the state of Idaho shall be available to ITR teams.

(c) Identify and implement an Idaho incident management and support team (IIMAST) that has appropriately trained personnel to the type 3 level and necessary equipment to respond to all hazard incidents. The military division shall enter into a joint exercise of powers agreement with each entity or person providing equipment or services to a designated IIMAST member. The teams shall be available and may respond to all hazard incidents at the direction of the military division or its designee. When responding solely at the direction of the local incident commander, no cost recovery from the state of Idaho shall be available to IIMAST teams.

(d) Contract with persons to meet state emergency response needs for the teams and response authorities.

(e) Advise, consult and cooperate with agencies of the state and federal government, other states and their state agencies, cities, counties, tribal governments and other persons concerned with technical, rescue and all hazard incident disasters.

(f) Encourage, participate in or conduct studies, investigations, training, research and demonstrations for and with Idaho technical rescue (ITR) teams, specialty rescue teams (SRT), Idaho incident management and support teams (IIMAST), local emergency response authorities and other interested persons.

(g) Collect and disseminate information relating to emergency response to technical rescue related events and all hazards incident disasters.

(h) Accept and administer loans, grants or other funds or gifts, conditional or otherwise, made to the state for emergency response activities provided for in this section and section 46-1026, Idaho Code.

(i) Submit an annual report prior to February 1 to the governor and to the legislature concerning emergency response to technical rescue related events and disasters.

(2) ~~The military division through the bureau of homeland security~~ Idaho office of emergency management shall have authority to promulgate rules and provide procedures to:

(a) Govern reimbursement of claims pursuant to this section when a disaster has been declared pursuant to chapter 10, title 46, Idaho Code.

(b) Provide for credentialing of Idaho technical rescue (ITR) teams, specialty rescue teams (SRT), and Idaho incident management and support teams (IIMAST) and for the identification and operation of all teams established pursuant to this section and section 46-1026, Idaho Code, and in accordance with the national incident management system, the national response plan framework and nationally recognized standards.

(c) Establish a credentialing program to review and evaluate new and existing local and regional technical rescue capabilities and provide recommendations for capability enhancement in accordance with the national incident management system, the national response plan framework and nationally recognized standards.

(3) Consistent with the provisions of subsections (4) and (5) of this section, the state of Idaho shall be liable for the acts or omissions of the Idaho technical rescue (ITR), specialty rescue teams (SRT) and Idaho incident management and support (IIMAST) teams responding to a technical rescue or all hazard incidents as a management team and the designating or requesting city or county shall be liable for the acts or omissions of a local emergency response authority responding to a technical rescue incident within its jurisdiction.

(4) Notwithstanding any other provision of law to the contrary, any Idaho technical rescue (ITR) team, specialty rescue team (SRT), Idaho incident management and support team (IIMAST), local emergency response authority or other person or group of persons who respond to a technical rescue incident or all hazard incidents as a management team at the request of an incident commander shall not be subject to civil liability for assistance or advice, except as provided in subsection (5) of this section.

(5) The exemption from civil liability provided in this section shall not apply to an act or omission that caused, in whole or in part, such technical rescue or all hazard incident management response to a person who may otherwise be liable therefor or any person who has acted in a grossly negligent, reckless or intentional manner.

(6) Nothing in this section shall be construed to abrogate the immunity granted to governmental entities pursuant to chapter 9, title 6, Idaho Code.

SECTION 20. That Section 46-1211, Idaho Code, be, and the same is hereby amended to read as follows:

46-1211. COUNCIL MEMBERS. (1) The council members shall be appointed by the governor and shall include at a minimum the representatives of the following organizations:

- (a) One (1) representative from the Idaho transportation department;
- (b) One (1) representative from the Idaho sheriffs' association;
- (c) One (1) representative from the Idaho chiefs of police association;
- (d) One (1) representative from the Idaho fire chiefs association;
- (e) One (1) representative from the association of Idaho cities;
- (f) One (1) representative from the Idaho association of counties;

(g) One (1) representative from the ~~bureau of homeland security~~ Idaho office of emergency management;

(h) One (1) representative from the Idaho department of correction;

(i) One (1) representative from the Idaho state police;

(j) One (1) representative from the Idaho department of lands;

(k) One (1) representative from the Idaho department of fish and game;

(l) One (1) representative from the Idaho department of health and welfare;

(m) One (1) representative from Idaho tribal government;

(n) Two (2) members at large; and

(o) One (1) representative from each of the six (6) district interoperable governance boards (DIGBs).

(2) Additional voting members will be invited in the following capacities:

(a) One (1) liaison from federal law enforcement;

(b) One (1) liaison from the United States department of the interior.

SECTION 21. That Section 67-5806, Idaho Code, be, and the same is hereby amended to read as follows:

67-5806. DECLARATION OF EMERGENCY. A disaster emergency, as defined in section 46-1002(32) and (43), Idaho Code, is in existence as a result of the introduction of Canadian gray wolves, which have caused and continue to threaten vast devastation of Idaho's social culture, economy and natural resources. The geographical extent of this emergency shall include any part of the state of Idaho where gray wolves have been sighted and whose sighting has been documented or otherwise confirmed by the office of species conservation or the department of fish and game.

SECTION 22. The provisions of Section 20 of this act shall be null, void and of no force and effect on and after December 31, 2018.

Approved March 22, 2016

CHAPTER 119
(H.B. No. 381)

AN ACT

RELATING TO VETERINARIANS; AMENDING SECTION 54-2103, IDAHO CODE, TO REVISE DEFINITIONS, TO MAKE A CODIFIER'S CORRECTION AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 54-2105, IDAHO CODE, TO REVISE TERMINOLOGY AND TO PROVIDE A CORRECT A CODE REFERENCE.

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

SECTION 1. That Section 54-2103, Idaho Code, be, and the same is hereby amended to read as follows:

54-2103. DEFINITIONS. As used in this chapter:

(1) "Accredited continuing education activity" means a provider and course, seminar, scientific program or any other activity approved by the board or its designees for continuing education credit.

(2) "Accredited or approved school of veterinary medicine" means any veterinary college or division of a university or college inside or outside the United States or Canada that offers the degree of doctor of veterinary medicine, veterinary medicine doctor, or its equivalent and is accredited or

approved by the council on education of the American veterinary medical association or other accrediting agency or association approved by the board.

(3) "Allied health professional" means a person holding a current active license, in good standing, in any state to practice one (1) of the healing arts including, but not limited to, medicine, dentistry, osteopathy, chiropractic, acupuncture and podiatry.

(4) "Anesthetized" means any condition of general anesthesia, caused by the administration of a drug or combination of drugs in sufficient quantity to produce a state of unconsciousness or disassociation and blocked response to a given pain or alarm stimulus.

(5) "Animal" means any animal other than man and includes fowl, birds, fish and reptiles, wild or domestic, living or dead.

(6) "Assistant" means any individual, other than a certified veterinary technician or a licensed veterinarian, who is utilized by a licensed veterinarian to assist in the performance of acts pertaining to the practice of veterinary medicine.

(7) "Board" means the state board of veterinary medicine.

(8) "Certified euthanasia agency" or "CEA" means a law enforcement agency, an animal control agency or a society for the prevention of cruelty to animals, which has been inspected and certified by the committee on humane euthanasia task force or the board.

(9) "Certified euthanasia technician" or "CET" means a person employed by a certified euthanasia agency, who is instructed and certified by the committee on humane euthanasia task force or the board as defined in the rules of the board, but not to include an individual employed as a technician by animal research laboratories.

(10) "Certified veterinary technician" means a person who has fulfilled the certification requirements prescribed by board rule and has been certified by the board to practice veterinary technology in this state.

(11) "Consultation" means a deliberation between two (2) or more veterinarians concerning the diagnosis of a disease or the proper management of the case.

(12) "Credit hour" means fifty (50) minutes of participation in an accredited continuing education activity.

(13) "Dentistry" is the practice of veterinary medicine and means the application or use of any instrument or device to any portion of an animal's tooth, gum or any related tissue for the prevention, cure or relief of any wound, fracture, injury, disease or other condition of an animal's tooth, gum or related tissue. Dentistry includes, but is not limited to:

(a) "Preventive dental procedures" including, but not limited to, the removal of calculus, soft deposits, plaque, stains, and floating to shape the teeth above the gum line or the smoothing, filing or polishing of tooth surfaces above the gum line; and

(b) "Operative dentistry/oral surgery" or any other dental procedure that invades the hard or soft oral tissue including a procedure that alters the structure of one (1) or more teeth, or repairs damaged and diseased teeth, or the deliberate extraction of one (1) or more teeth.

(14) "Direct supervision" means the supervising veterinarian is on the premises where the animal is being treated, is quickly and easily available and the animal has been examined by the supervising veterinarian as acceptable veterinary medical practice requires.

(15) "Discipline" means board action including, but not limited to:

(a) Refusing to issue, renew or reinstate a license, permit or certification to practice as a licensed veterinarian, a certified veterinary technician, a certified euthanasia agency or a certified euthanasia technician;

(b) Denial, revocation, suspension, sanction, probation or voluntary surrender of a license, permit or certification to practice as a li-

censed veterinarian, a certified veterinary technician, a certified euthanasia agency or a certified euthanasia technician;

(c) The ability to enter into consent agreements and negotiated settlements with licensed veterinarians, certified veterinary technicians, certified euthanasia agencies and certified euthanasia technicians;

(d) The ability to bring an administrative or civil action against any person in or outside of this state who practices veterinary medicine, veterinary technology or who performs euthanasia within this state.

(16) "Emergency" means that the animal has been placed in a life-threatening condition where immediate treatment is necessary to sustain life.

(17) "Emergency veterinary facility" means any facility with the primary function of receiving, treating, and monitoring emergency patients during its specified hours of operation or that displays to the public any sign, card, or advertisement that indicates it is an emergency veterinary clinic or hospital. An emergency veterinary facility may be an independent after-hours service, an independent twenty-four (24) hour service, or it may be part of a full-service veterinary medical facility.

(18) "Committee on humane eEuthanasia task force" means a task force committee established by the board for the purposes of training, examining, certifying and inspecting certified euthanasia agencies and certified euthanasia technicians.

(19) "Extra label use" means the actual or intended use of a human or veterinary drug in an animal in a manner that is not in accordance with the drug's labeling.

(20) "Floating" means shaping the posterior (cheek) teeth and the incisors (cutting teeth) in horses, mules and donkeys through the use of hand floats, rasps, burs, mechanical files or other file-like instruments to restore balance, allow more efficient mastication, and reduce pain and trauma to the periodontal tissues.

(21) "Herd, litter or flock" of animals means animals managed as a group for purposes including, but not limited to, breeding, sale, show or food production.

(22) "Immediate supervision" means the supervising veterinarian is in the immediate area, in audible and visual range of the animal patient and the person treating the patient and the animal has been examined by the supervising veterinarian as acceptable veterinary medical practice requires.

(23) "In good standing" means, when used in reference to an applicant for licensure or certification, that an applicant:

(a) Has not been the recipient of any administrative penalties regarding his practice of veterinary medicine including, but not limited to, fines, formal reprimands, license suspensions or revocations (except for license revocations for nonpayment of license renewal fees) or probationary limitations, or has not entered into any consent agreement or negotiated settlement that contains conditions placed by a board on his professional conduct and practice, including any voluntary surrender of a license; and

(b) Has never had his United States drug enforcement administration privileges restricted or revoked; and

(c) Is not currently under investigation by another veterinary licensing authority for acts which would provide a basis for disciplinary action in this state, as determined by the board; and

(d) Has no physical or mental impairment related to drugs, alcohol, or a finding of mental incompetence by a physician that would limit the applicant's ability to undertake the practice of veterinary medicine in a manner consistent with the safety of a patient or the public; and

(e) Has not been convicted of a felony as defined in chapter 1, title 18, Idaho Code; and

(f) Has no criminal conviction record or pending criminal charge relating to an offense the circumstances of which substantially relate to

the practice of veterinary medicine. Applicants who have criminal conviction records or pending criminal charges shall require appropriate authorities to provide information about the record or charge directly to the board in sufficient detail to enable the board to make a determination whether the record or charge is substantially related to the practice of veterinary medicine.

(24) "Indirect supervision" means the supervising veterinarian is not on the premises but is available for immediate contact by telephone, radio or other means, has given either written or oral instructions for treatment of the animal patient, the animal has been examined by the supervising veterinarian as acceptable veterinary medical practice requires, and the animal, if previously anesthetized, has recovered to the point of being conscious and sternal.

(25) "Legend/Prescription drug" means any drug which, under federal law, regulation or rule, is required, prior to being distributed or delivered, to be labeled with one (1) of the following statements: "Caution: Federal law restricts this drug to be used by or on the order of a licensed veterinarian," or "Caution: Federal law prohibits dispensing without a prescription," or "RX Only," or a drug which is required by any applicable state or federal law, rule or regulation to be distributed or dispensed pursuant to a prescription only, or is restricted to use by licensed practitioners only.

(26) "Licensed veterinarian" means a person who is validly and currently licensed to practice veterinary medicine in this state.

(27) "Malpractice" means, but is not limited to:

(a) Treatment in a manner contrary to accepted veterinary practices and with injurious results; or

(b) Any professional misconduct or unreasonable lack of professional skill or fidelity in the performance of the professional practice of veterinary medicine; or

(c) Failure to provide adequate supervision, except in an emergency situation; or

(d) Allowing an unqualified individual to perform a procedure that is part of the practice of veterinary medicine; or

(e) The negligent practice of veterinary medicine, as determined by the standard of practice for the area, that results in injury, unnecessary suffering or death.

(28) "Medical incompetence" means lacking in sufficient medical knowledge or skills or both to a degree likely to endanger the health of patients.

(29) "Mobile clinic" means a vehicle including, but not limited to, a camper, motor home, trailer or mobile home, used as a veterinary medical facility. A mobile clinic is not required for house calls or farm calls.

(30) "On-call emergency service" means a veterinary medical facility that is available to provide emergency veterinary services as requested if a veterinarian is available.

(31) "Owner/Ownership" means ownership as defined by the laws of property and ownership, chapter 1, title 55, Idaho Code, and chapter 1, title 73, Idaho Code.

(32) "Person" means any individual, firm, partnership, association, joint venture, cooperative and corporation, or any other group or combination acting in concert; and whether or not acting as principal, trustee, fiduciary, receiver, or as any other kind of legal or personal representative, or as the successor in interest, assignee, agent, factor, servant, employee, director, officer, or any other representative of such person.

(33) "Physical or mental incompetence" means the veterinarian's ability to practice veterinary medicine with reasonable skill and safety is impaired by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals or any other substance, or as a result of any mental or physical disability.

(34) "Practice of veterinary medicine" in this state, through telephonic, electronic or other means, regardless of the location of the veterinarian, includes veterinary surgery, obstetrics, dentistry, and all other branches or specialties of veterinary medicine and means:

(a) To directly or indirectly diagnose, treat, correct, change, relieve or prevent animal disease, deformity, defect, injury or other physical or mental conditions; including the prescribing, dispensing, delivering or administering of any drug, medicine, biologic, apparatus application, anesthetic or other therapeutic or diagnostic substance or technique, or the use of any obstetrical procedure or any manual or mechanical procedure for artificial insemination, for testing or examining for pregnancy, fertility evaluation, embryo transplant, grading of fresh semen, or to render advice or recommendation with regard to any of the above.

(b) To represent, directly or indirectly, publicly or privately, an ability and willingness to do any act described in ~~subsection (34)~~ paragraph (a) of this subsection.

(c) To use any title, words, abbreviations or letter in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in ~~subsection (34)~~ paragraph (a) of this subsection, except where such person is a licensed veterinarian.

(35) "Professional supervision" means the supervising veterinarian is in daily contact by telephone, radio or other means with the temporary licensee.

(36) "Referral" means the transfer of responsibility for diagnosis and treatment from the referring veterinarian to the receiving veterinarian, or from the referring veterinarian to the board-certified specialist, or from the referring veterinarian to an allied health professional.

(37) "Regular employee" means a person who performs services for the animal's owner other than, or in addition to, feeding, boarding, castrating and dehorning, but does not include independent contractors or agents.

(38) "Supervision" means the action or process of a supervising veterinarian in directing activities or a course of action for those individuals to whom activities or functions have been assigned or delegated.

(39) "Supervising veterinarian" means a licensed veterinarian utilizing the services of a temporary licensee, certified veterinary technician, veterinary technician, veterinary technician with a temporary certification, veterinary assistant, certified euthanasia technician, or as provided by rule. A supervising veterinarian shall be individually responsible and liable, regardless of the supervision provided, for all damages arising out of his own acts or omissions and for the performance of any acts and omissions pertaining to the practice of veterinary medicine that are delegated to the temporary licensee, certified veterinary technician, veterinary technician, veterinary assistant or certified euthanasia technician. Nothing herein shall be construed to deprive the board of its disciplinary authority with respect to the temporary licensees, certified veterinary technicians, veterinary technicians, veterinary assistants or certified euthanasia technicians.

(40) "Unethical or unprofessional conduct" means to knowingly engage in conduct of a character likely to deceive or defraud the public, false or misleading advertising or solicitation, obtaining any fee or compensation by fraud or misrepresentation, sharing office space and working in conjunction with any person illegally practicing veterinary medicine, employing either indirectly or directly an unlicensed or uncertified person to perform acts pertaining to the practice of veterinary medicine, except as provided by law or rule, or the violation of any law or rules adopted by the board pertaining to unethical or unprofessional conduct, or that provide a code of professional conduct to be followed and carried out by persons licensed or certified by the board.

(41) "Unlicensed practice" means:

(a) The practice of veterinary medicine in this state, through telephonic, electronic or other means, regardless of the location of the veterinarian, without a valid, unexpired, unrevoked, and unsuspended active license or certification in this state to do so, except as provided by law or rule; or

(b) Representing one's self through offerings, advertisements or use of professional titles or designations as being qualified to practice veterinary medicine.

(42) "Veterinarian" means a person who has received a doctor's degree in veterinary medicine from an accredited or approved school of veterinary medicine or as otherwise provided by law or rule.

(43) "Veterinarian on call" means a veterinarian is not present at the veterinary medical facility, but is able to respond within a reasonable time to requests for emergency veterinary services.

(44) "Veterinarian on premises" means a veterinarian is present at the veterinary medical facility and is prepared and qualified to render veterinary services.

(45) "Veterinary medical facility" means any premises, office, unit, structure, mobile unit, or area utilized for the practice of veterinary medicine other than the premises of an owner when used for treatment of the owner's animal.

(46) "Veterinary technician" means a person who has graduated from a veterinary technology program accredited or approved by the committee on veterinary technician education and activities of the American veterinary medical association, or other accrediting agency approved by the board, or a person who has received equivalent training as set forth in the rules of the board.

(47) "Veterinary technology" means the performance of services within the practice of veterinary medicine by a person working under the direction of a supervising veterinarian to perform duties that require an understanding of veterinary medicine in order to carry out the orders of the veterinarian. Veterinary technology does not include prognosis, diagnosis, operative dentistry, deliberate tooth extraction procedures or the prescribing of treatment or performing surgery of any kind.

SECTION 2. That Section 54-2105, Idaho Code, be, and the same is hereby amended to read as follows:

54-2105. BOARD OF VETERINARY MEDICINE -- COMPOSITION -- APPOINTMENT -- VACANCY -- QUALIFICATIONS -- COMPENSATION -- REMOVAL -- MEETINGS -- OFFICERS -- REVENUES -- POWERS. (1) A board of veterinary medicine, which shall consist of six (6) members to be appointed by the governor, is hereby created in the department of self-governing agencies. Five (5) members shall be veterinarians and one (1) member shall be a public member. Each of the five (5) veterinary members shall serve a term of four (4) years as a veterinary board member and a fifth year as a liaison officer, or until his successor is appointed, except that the terms of the first appointees may be for shorter periods to permit staggering of terms whereby one (1) term expires each year. The public member shall serve for a term of three (3) years or until his successor is appointed.

Whenever the occasion arises for an appointment of a veterinary member under this section, the state veterinary medical association or one (1) of the regional veterinary medical associations may nominate three (3) or more qualified persons and forward the nominations to the governor at least thirty (30) days before the date set for the appointment. The governor shall appoint one (1) of the persons so nominated. Vacancies due to death, resignation or removal shall be filled for the remainder of the unexpired term in the same manner as regular appointments. No person shall serve two

(2) consecutive terms, except in the case of a person appointed for less than a full term. Each of the five (5) veterinarians shall be qualified to serve as a member of the board if a graduate of an accredited or approved school of veterinary medicine or, if a graduate of a nonaccredited or nonapproved school, a letter from the educational commission for foreign veterinary graduates (ECFVG) certifying completion of the ECFVG program or a copy of their ECFVG certificate, or verification of successful completion of any educational equivalency program established for the purpose of evaluating an individual's educational knowledge and clinical skills as they relate to the practice of veterinary medicine, as approved and outlined by the rules of the board. In addition to verification of graduation from an accredited or nonaccredited school of veterinary medicine, each of the five (5) veterinary members shall be a resident of this state, and have been licensed to practice veterinary medicine in this state for the five (5) years immediately preceding the time of appointment. The public member shall be at least twenty-one (21) years of age and a resident of this state for five (5) years immediately preceding appointment. No person may serve on the board who is, or was, during the two (2) years preceding appointment, a member of the faculty or trustees of an accredited school of veterinary medicine.

(2) Each member of the board and certified committee on humane euthanasia task force shall be compensated as provided by section 59-509(n), Idaho Code.

(3) Any member of the board may be removed by the governor at his discretion.

(4) The board shall meet at least once each year at the time and place fixed by rule of the board. Other necessary meetings may be called by the president of the board by giving notice as may be required by state statute or rule. Except as may otherwise be provided, a majority of the board constitutes a quorum. Meetings shall be open and public except as otherwise provided by the open meeting law, chapter 23, title 6774, Idaho Code.

(5) The board member serving the fourth year of appointment shall be the president of the board and shall serve as chairman at the board meetings.

(6) The veterinary board member serving the fifth year of appointment shall be the liaison officer of the board and shall render advice, review and mediate complaints, and perform other tasks assigned by the board.

(7) All revenues received under this chapter shall be paid to the state board of veterinary medicine account created in section 54-2121, Idaho Code, and shall be subject to and administered in accordance with the provisions of this chapter.

(8) The responsibility for enforcement of the provisions of this chapter is hereby vested in the board. The board shall have all of the duties, powers and authority specifically granted by or necessary for the enforcement of this chapter and the rules made pursuant thereto, as well as such other duties, powers and authority as it may be granted from time to time by applicable law. The powers vested in the board shall include, but are not limited to:

(a) Establish qualifications and prescribe the application format for issuance or renewal of a license to practice as a veterinarian and certification to practice as a veterinary technician, euthanasia agency or euthanasia technician, review each application for compliance with the licensure and certification requirements, issue, renew or deny licenses and certifications. Upon a showing of good cause by a licensee or certificate holder to the board, the board may grant an extension of time for submission of the required application or renewal documentation, including the required number of continuing education hours, as set forth by this chapter or the rules of the board.

(b) Examine and determine the qualifications and fitness of applicants for a license to practice veterinary medicine, or certification to

practice veterinary technology or as a euthanasia technician or operate as a certified euthanasia agency in the state.

(c) Issue, renew, reinstate, deny, suspend, sanction, reprimand, restrict, limit, place on probation, require voluntary surrender of, or revoke any licenses, certifications or temporary permits or certifications to practice veterinary medicine, veterinary technology or euthanize animals in the state, and may fine and impose other forms of discipline, and enter into consent agreements and negotiated settlements with licensed veterinarians, certified veterinary technicians, certified euthanasia technicians and certified euthanasia agencies consistent with the provisions of this chapter and the rules adopted hereunder. Whenever it appears that grounds for discipline exist under this chapter and the board finds that there is an immediate danger to the public health, safety or welfare, the board is authorized to commence emergency proceedings for revocation or other action. Such proceedings shall be promptly instituted and processed under the applicable provisions of chapter 52, title 67, Idaho Code.

(d) Establish a schedule of fees for licensing, certifying and registering veterinarians, veterinary technicians, euthanasia agencies and euthanasia technicians, as well as for the review, approval and administration of national licensing and certification examinations.

(e) In addition to the fees specifically provided for herein, the board may assess additional reasonable fees for services rendered to carry out its duties and responsibilities as required or authorized by this chapter or rules adopted hereunder. Such services rendered shall include, but not be limited to, the following:

- (i) Issuance of duplicate licenses or certificates;
- (ii) Mailing lists or reports of data maintained by the board;
- (iii) Copies of any documents;
- (iv) Verification of license or certification status;
- (v) Examination review, approval and administration; and
- (vi) Examination materials.

(f) Upon its own motion or upon any complaint, to initiate and conduct investigations on all matters relating to the practice of veterinary medicine or veterinary technology or the euthanizing of animals. Complaints not filed within one (1) year after the alleged unlawful conduct occurs will not be investigated. If the alleged unlawful conduct is of a continuing nature, the date of the occurrence of such conduct shall be deemed to be any date subsequent to the commencement of the unlawful conduct up to and including the date on which the complaint is filed so long as the alleged unlawful conduct continues.

(g) Initiate and conduct disciplinary hearings or proceedings on its own or through its designated hearing officer, provided such hearings and proceedings shall be held in conformance with the provisions of chapter 52, title 67, Idaho Code, and in connection thereto, to administer oaths, receive evidence, make the necessary determinations, and enter orders consistent with the findings. The board may require the attendance and testimony of witnesses and the production of papers, records, or other documentary evidence and may commission depositions. The board may designate one (1) or more of its members or a person appointed by the state board of veterinary medicine to serve as its hearing officer.

(h) Employ an executive director who shall be responsible for the performance of the administrative functions of the board and such other duties as the board may direct. The board may also employ or contract with other individuals to provide professional, clerical or other services deemed necessary by the board to effectuate the provisions of this chapter and the rules of the board, and purchase or rent necessary office space, equipment and supplies. The compensation of the executive di-

rector and other personnel shall be determined by the board and the executive director shall be exempt from the provisions of chapter 53, title 67, Idaho Code.

(i) Appoint from its own membership one (1) or more members to act as representatives of the board at any meeting within or outside the state where such representation is deemed desirable.

(j) Bring proceedings in the courts for the enforcement of this chapter or any rules made pursuant thereto.

(k) For purposes of enforcement of the provisions of this chapter and any rules duly promulgated hereunder, including the levying of civil penalties, assessment and collection of fines, and recovery of costs and paralegal, hearing officer and attorney's fees incurred by the board in investigation and prosecution of complaints, the board shall maintain jurisdiction over individuals, irrespective of their license or certification status (i.e., active, inactive, expired, lapsed, surrendered or disciplined) relative to acts, omissions, complaints and investigations which occurred during the licensure or certification period. Jurisdiction of the board shall also extend to all individuals engaged in the practice of veterinary medicine, veterinary technology or practicing as a certified euthanasia agency or certified euthanasia technician in this state as defined in section 54-2103, Idaho Code. It is the intent of this subsection that the board's jurisdiction should extend to all licensed or unlicensed or certified or uncertified individuals and that licensees and certification holders cannot divest the board of jurisdiction by changing, surrendering or relinquishing licensure or certification status.

(l) Establish a certified committee on humane euthanasia ~~task force~~ for the purposes of training, examining, licensing and certifying euthanasia agencies and euthanasia technicians and assess application, training workshop and certification fees. The fees so assessed are continuously appropriated to the board to support the activities of the ~~task force~~ committee.

(m) Adopt, amend or repeal all sections of this chapter and rules necessary for its government and all rules necessary to carry into effect the provisions of this chapter pursuant to the Idaho administrative procedure act, chapter 52, title 67, Idaho Code, including the establishment and publication of standards of professional conduct for the practice of veterinary medicine.

(n) Conduct probationary or other practice and facility inspections necessary for enforcement of this chapter or the rules duly promulgated hereunder or any order, negotiated settlement or probationary agreement of the board and issue administrative citations to alleged violators.

Approved March 22, 2016

CHAPTER 120
(H.B. No. 471)

AN ACT

RELATING TO RECREATIONAL ACTIVITIES; AMENDING SECTION 67-7113, IDAHO CODE, TO REVISE VIOLATION AND PENALTY PROVISIONS; AMENDING SECTION 67-7127, IDAHO CODE, TO PROVIDE THAT MONEYS IN THE MOTORBIKE RECREATION ACCOUNT MAY BE USED FOR SECURING USE LICENSES AND RECREATION EASEMENTS; REPEALING SECTION 67-7129, IDAHO CODE, RELATING TO PENALTIES; AND AMENDING SECTION 67-7133, IDAHO CODE, TO PROVIDE FOR THE ENFORCEMENT OF CERTAIN RULES.

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

SECTION 1. That Section 67-7113, Idaho Code, be, and the same is hereby amended to read as follows:

67-7113. VIOLATIONS -- ACCOUNTABLE FOR PROPERTY DAMAGE. (1) Unless otherwise provided in this chapter, aAny person who violates any provision of sections 67-7102 through 67-7112, Idaho Code this chapter, or any rule promulgated by the department pursuant to this chapter, shall be guilty of an infraction, and shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100).

(2) In addition thereto, the operator and/or owner of the snowmobile shall be responsible and held accountable to the owner of any lands where trees, shrubs or other property have been damaged as the result of travel over their premises.

SECTION 2. That Section 67-7127, Idaho Code, be, and the same is hereby amended to read as follows:

67-7127. USE OF MONEYS IN ACCOUNT. The board shall administer the motorbike recreation account. The moneys derived from this account shall be used as follows:

(1) For the securing of special leases, use licenses, recreation easements or permits, or for the actual purchase of land under private, state or federal ownership to be used for recreational off-highway vehicle activity;

(2) For the securing, maintenance, construction or development of trails and other recreational facilities for off-highway vehicle use on state and federal lands;

(3) To finance the formulation and implementation under the board's direction of an off the road rider education program.

(4) To acquire applicable federal matching funds.

SECTION 3. That Section 67-7129, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Section 67-7133, Idaho Code, be, and the same is hereby amended to read as follows:

67-7133. RESPONSIBILITY FOR ENFORCEMENT. The provisions of this chapter, and any rule promulgated by the department pursuant to this chapter, shall be enforced by the law enforcement personnel of the Idaho state police, the department of fish and game, employees of the department of parks and recreation authorized by the director of the Idaho state police, the sheriffs and their deputies of the various counties in the state and peace officers of each city.

Approved March 22, 2016

CHAPTER 121
(H.B. No. 472)

AN ACT

RELATING TO LICENSE PLATES; AMENDING SECTION 49-443, IDAHO CODE, TO PROVIDE THAT THE IDAHO TRANSPORTATION DEPARTMENT SHALL PROVIDE NEW PLATES BEARING THE SAME NUMBER OR, IF REQUESTED BY THE OWNER, THE NEXT AVAILABLE NUMBER, REGARDING CERTAIN VEHICLES FOR PURPOSES OF SPECIFIED PROVISIONS OF LAW.

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

SECTION 1. That Section 49-443, Idaho Code, be, and the same is hereby amended to read as follows:

49-443. LICENSE PLATES TO BE FURNISHED BY DEPARTMENT -- FORM AND CONTENTS. (1) The assessor or the department shall furnish to every owner whose vehicle is registered or licensed by that office, pursuant to sections 49-402 and 49-402A, Idaho Code, one (1) license plate for vehicles registered under the provisions of section 49-406, 49-406A or 49-408, Idaho Code, or a motorcycle, trailer, truck-tractor, or semitrailer; one (1) restricted vehicle license plate for all-terrain vehicles, utility type vehicles and motorbikes licensed pursuant to this chapter; and two (2) license plates for every other motor vehicle. If a vehicle is issued one (1) plate only, that plate shall be displayed in accordance with the provisions of section 49-428, Idaho Code. For vehicles registered under the provisions of section 49-407, Idaho Code, the applicant shall provide one (1) plate to be displayed on the rear of the vehicle.

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

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

(2) License plates shall be valid for a period of seven (7) years beginning with the date of issuance of new plates. At the end of the sixth year, the registered owner shall receive notice of the date upon which the plates will expire.

For specialty license plate programs discontinued pursuant to the provisions of section 49-402C, Idaho Code, a registrant with a specialty license plate currently registered under the program may use such license plate for up to seven (7) years from the date of issuance. This provision is intended to permit the use of the specialty plate by the registrant regardless of the number of persons who purchase the specialty plate. The registrant shall be required to pay the special plate program fees provided for specialty plates pursuant to this chapter. Such fees shall be deposited into the state highway account. For purposes of section 49-434, Idaho Code, as it applies to commercial vehicles, and section 49-435, Idaho Code, the department shall provide new plates bearing the same number or upon request from the registered owner, the next available number.

(3) If a license plate number has expired as provided in subsection (2) of this section and is not renewed within sixty (60) days of its expiration, the plate number shall be available for use by another registrant. To obtain a specific number in the recycled license plate number file, the owner of a registered vehicle may contact the county regarding availability.

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

(4) License plates issued for vehicles required to be registered in accordance with the provisions of sections 49-402 and 49-402A, Idaho Code, shall be issued color coded red, white or blue registration validation stickers showing the year of registration. Each registration validation sticker shall bear a number from 1 through 12, which number shall correspond to the month of the calendar year in which the registration of the vehicle expires and shall be affixed to the lower right-hand corner of the plates within the outlined rectangular area.

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

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

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

(8) The department shall furnish to every owner whose vehicle is registered under sections 49-434 and 49-435, Idaho Code, a pressure-sensitive,

uniquely numbered, color coded red, white or blue registration sticker to validate the license plate, provided however, the provisions of this subsection shall not apply to trailers and semitrailers registered under the provisions of section 49-434(4), Idaho Code.

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

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

Approved March 22, 2016

CHAPTER 122
(H.B. No. 473)

AN ACT

RELATING TO THE MILITARY; AMENDING SECTION 46-409, IDAHO CODE, TO REVISE DEFINITIONS, TO REVISE PROVISIONS REGARDING THE APPLICABILITY OF CERTAIN LAW, TO PROVIDE CORRECT CITATIONS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 46-409, Idaho Code, be, and the same is hereby amended to read as follows:

46-409. THE MILITIA CIVIL RELIEF ACT. (1) As used in this section, the following terms have the following meanings:

(a) "Active member" means any member of the air or army national guard who is called or ordered by the governor ~~for thirty (30) consecutive days or more~~ to state active duty, or to duty other than for training under title 32 U.S.C., or ordered by competent federal authority into active federal service under title 10 U.S.C. ~~for thirty (30) consecutive days or more.~~

(b) "Be called or ordered by the governor" means to be called or ordered by the governor ~~for thirty (30) consecutive days or more~~ to state active duty or to duty other than for training under title 32 U.S.C.

(c) "Duty other than for training" means any state active duty or title 32 U.S.C. duty other than training ~~unless training is required as part of thirty (30) days of the consecutive duty~~ upon the call or order of the governor, or active federal service under title 10 U.S.C. Duty other than for training does not include weekend drill, annual training (generally fifteen (15) days) as part of normal national guard service, and does not include attendance at military schools ~~unless such attendance is required as part of, or occurs in conjunction with thirty (30) days of consecutive duty upon the call or order of the governor, or by order of competent federal authority.~~

(d) "Employee" means any person employed by a public or private employer.

(e) "~~Soldiers' and sailors'~~ Servicemembers civil relief act (SSCRA)" means the provisions of 50 ~~App.~~ U.S.C. App. section 501 ~~3901~~ 3901 et seq., which protects active military service members.

(f) "State active duty" means any active duty performed ~~for thirty (30) consecutive days or more~~ by an active member of the national guard in accordance with this title when called or ordered by the governor.

(g) "~~Uniform~~ Uniformed services employment and reemployment rights act of 1994 (USERRA)" means the provisions of 38 U.S.C. section 4301 et seq., which gives employees who leave a civilian job to perform military

service the right to return to the civilian job held before entering military service with the rights to seniority, to purchase insurance coverage and purchase retirement credit.

(2) Whenever any active member of the national guard in time of war, armed conflict, or emergency proclaimed by a governor or by the president of the United States, shall be called or ordered by a governor to state active duty ~~for a period of thirty (30) consecutive days or more~~, or to duty other than for training pursuant to title 32 U.S.C., the provision as then in effect of the ~~soldiers' and sailors'~~ servicemembers civil relief act, 50 App. U.S.C. App. section 501 ~~3901~~ et seq., and the ~~uniform~~ uniformed services employment and reemployment rights act, 38 U.S.C. section 4301 et seq., shall apply.

(3) With reference to 50 App. U.S.C. App. section 581 ~~4012~~, the adjutant general or his designee shall be responsible to execute certificates of service referred to therein.

Approved March 22, 2016

CHAPTER 123
(H.B. No. 476)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1004, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING THE STATEWIDE AVERAGE CLASS SIZE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 33-1004, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004. STAFF ALLOWANCE. For each school district, a staff allowance shall be determined as follows:

(1) Using the daily attendance reports that have been submitted for computing the February 15 apportionment of state funds as provided in section 33-1009, Idaho Code, 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 1.021. A district must demonstrate that it actually employs the number of certificated instructional staff allowed, except as provided in subsection (6) (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 (6) (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;

(5) Determine the classified staff allowance by multiplying the support units by .375;

(6) Additional conditions governing staff allowance:

(a) In determining the number of staff in subsections (2), (3), (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), (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.

(i) In the determination of statewide average class size, the state department of education shall not use a single figure developed through the averaging of all districts of varying size, geographical location and pupil populations throughout the state. The statewide average class size shall be comprised of multiple

figures determined through analysis of like and similarly situated districts and use of the divisor breakdown established in section 33-1002, Idaho Code.

(ii) The state board of education may promulgate rules outlining the method of calculation of the statewide average class size figures.

(iii) The one percent (1%) reduction required in paragraph (g) of this subsection shall not be applicable for any school year subsequent to a year when the school district's boundaries have changed because of division, consolidation, excision or annexation of territory.

(7) 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.

(8) A district may utilize a portion of the instructional staff allowance provided for in this section for kindergarten teachers to visit the parents or guardians of students during the first week of the kindergarten school year. Such visits may take place at school, at the student's home or at another location agreed to by the teacher and parents or guardians. The purpose of such visits is to help strengthen the working relationship between the teacher, the parents or guardians, and the student. The visits should be used as an opportunity to help establish the teacher's expectations of the student. The visit should also provide an opportunity for the parents or guardians to explain their expectations. The amount of moneys to be expended for such visits by the district may not exceed the amount equal to one (1) week of instructional staff allowance computed for kindergarten instructors in the district.

Approved March 22, 2016

CHAPTER 124
(H.B. No. 332)

AN ACT

RELATING TO RESIDENTIAL CARE FACILITY ADMINISTRATORS; REPEALING SECTION 54-4208, IDAHO CODE, RELATING TO LICENSES AND EDUCATION AND TRAINING REQUIREMENTS; AND AMENDING SECTION 54-4209, IDAHO CODE, TO REVISE PROVISIONS REGARDING LICENSE RENEWAL AND REINSTATEMENT.

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

SECTION 1. That Section 54-4208, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 54-4209, Idaho Code, be, and the same is hereby amended to read as follows:

~~54-4209. LICENSURE -- ATTENDANCE AT CONTINUING EDUCATION PROGRAM -- RENEWAL AND REINSTATEMENT OF LICENSES. (1) Every individual who qualifies for licensure by the board under section 54-4208(1), Idaho Code, shall be issued a license. Thereafter, such individual shall annually be required to apply to the board for a license renewal and report any facts requested by the board on forms provided for such purpose. All licenses issued under the provisions of this chapter shall be subject to annual renewal and shall expire~~

~~unless renewed in the manner prescribed by the board regarding applications for renewal, continuing education, and fees. License renewal and reinstatement shall be in accordance with as set forth in section 67-2614, Idaho Code.~~

~~(2) Upon making an application for license renewal, each individual shall pay an annual renewal fee, and submit proof of the satisfactory completion of the required continuing education as may be provided in the rules of the board.~~

~~(3) Upon receipt of the renewal application, the required fee, and the proof of continuing education, the board shall issue a current license.~~

~~(4) A residential care facility administrator who has been duly licensed in this state and whose license has not been revoked or suspended, and whose license has expired for a period of not longer than five (5) years, may apply for the reinstatement of his license by filing with the board an application together with proof of having met the continuing education requirement within the previous twelve (12) months in accordance with the rules of the board, and payment of a twenty-five dollar (\$25.00) reinstatement fee together with the renewal fees for all lapsed years.~~

~~(5) The board shall maintain a register of all applications for licensing of residential care facility administrators, which register shall show: The name and address of each applicant, the name and address of employer or business connection of each applicant, the date of application, complete information of educational and experiential qualifications, the license issue date, the license number, the certificate issue date, the date on which the board reviewed and acted upon the application, and such other pertinent information as the board may deem necessary.~~

Approved March 22, 2016

CHAPTER 125
(H.B. No. 459)

AN ACT

RELATING TO THE HIGHER EDUCATION STABILIZATION FUND; AMENDING SECTION 33-3726, IDAHO CODE, TO PROVIDE FOR THE COMMUNITY COLLEGE START-UP ACCOUNT AND RELATED PROVISIONS.

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

SECTION 1. That Section 33-3726, Idaho Code, be, and the same is hereby amended to read as follows:

33-3726. HIGHER EDUCATION STABILIZATION FUND. There is hereby created in the state treasury a fund to be known as the higher education stabilization fund. The higher education stabilization fund shall consist of ~~three~~ four (34) separate accounts as follows:

(1) An account designated the strategic interest account shall consist of interest earnings from the investment of moneys deposited with the state treasurer into unrestricted current fund 0650-00, as designated by the state controller in the statewide accounting and reporting system. Annually on July 1, or as soon thereafter as is practicable, the state controller shall transfer such interest earnings to the strategic interest account. All moneys so transferred shall be expended for the maintenance, use and support of institutions that have deposited moneys into unrestricted current fund 0650-00. All such expenditures shall be subject to legislative appropriation. Institutions shall receive a pro rata share of a legislative appropriation based upon the amount of moneys any such institution has deposited into unrestricted current fund 0650-00 in the current fiscal year compared to the total amount deposited by all institutions in the current fiscal year.

Interest earned from the investment of moneys in the strategic interest account shall be retained in the strategic interest account.

(2) An account designated the surplus stabilization account shall consist of any other moneys made available through legislative transfers, appropriations or otherwise provided by law, or from any other governmental source. All such moneys shall be expended for the maintenance, use and support of institutions named in section 33-3803, Idaho Code. Such expenditures shall be made subject to legislative appropriation to the state board of education for college and universities. Distribution of such moneys to institutions shall be based upon the state board of education's established practices for the allocation of moneys to such institutions. Interest earned from the investment of moneys in this surplus stabilization account shall be retained in this surplus stabilization account.

(3) An account designated the surplus stabilization account for Eastern Idaho Technical College, North Idaho College, College of Southern Idaho and College of Western Idaho shall consist of any other moneys made available through legislative transfers, appropriations or otherwise provided by law, or from any other governmental source. All such moneys shall be expended for the maintenance, use and support of Eastern Idaho Technical College, North Idaho College, College of Southern Idaho and College of Western Idaho. Such expenditures shall be made subject to legislative appropriation to Eastern Idaho Technical College, through the appropriation to the division of professional-technical education, and to the community colleges. Distribution of such moneys shall be based upon established practices for the allocation of moneys to Eastern Idaho Technical College through the division of professional-technical education, or the state board of education's established practices for the allocation of moneys to the community colleges. Interest earned from the investment of moneys in this surplus stabilization account shall be retained in this surplus stabilization account.

(4) An account designated the community college start-up account shall consist of any other moneys made available through legislative transfers, appropriations or otherwise provided by law, or from any other governmental source. All such moneys shall be expended for the establishment, use and support of a community college in eastern Idaho. Distribution of such moneys shall be based upon voter approval of a community college district and appointment of a local board of trustees by the state board of education. Such expenditures shall be made subject to legislative appropriation to the state board of education. Interest earned from the investment of moneys in this community college start-up account shall be retained in this community college start-up account.

Approved March 22, 2016

CHAPTER 126
(H.B. No. 396)

AN ACT

RELATING TO THE EMPLOYMENT SECURITY LAW; AMENDING SECTION 72-1368, IDAHO CODE, TO EXPAND THE NOTICE PROVISION TO INCLUDE ALL DEPARTMENT COMMUNICATIONS CONTAINING DEADLINES OR OTHER RESPONSE REQUIREMENTS.

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

SECTION 1. That Section 72-1368, Idaho Code, be, and the same is hereby amended to read as follows:

72-1368. CLAIMS FOR BENEFITS -- APPELLATE PROCEDURE -- LIMITATION OF ACTIONS. (1) Claims for benefits shall be made in accordance with such rules as the director may prescribe.

(2) Each employer shall post and maintain in places readily accessible to individuals performing services for him printed statements concerning benefit rights under this chapter which shall be provided by the department without cost to the employer.

(3) (a) Following the filing of a claim pursuant to subsection (1) of this section the department shall:

(i) Verify the claimant's monetary eligibility pursuant to the requirements of section 72-1367, Idaho Code, and issue a determination. If monetarily eligible, the department shall establish the date the claimant's benefit year begins, the weekly benefit amount, the total benefit amount, the base period wages, and the base period covered employers.

(ii) If a claimant is monetarily eligible, the department shall verify, based on information provided by the claimant, whether the week claimed is a compensable week as defined in section 72-1312, Idaho Code. To receive benefits, a claimant must certify that each week claimed is a compensable week. In the event the week claimed is not a compensable week, the department shall issue a determination denying benefits and shall include the reasons for the ineligibility.

(b) If the department has reason to believe at any time within five (5) years from the week ending date for any week in which benefits were paid that a claimant was not eligible for benefits, the department may investigate the claim and on the basis of facts found issue a determination denying or allowing benefits for the week(s) in question. If the department determines a claimant was not entitled to benefits received, the department shall issue a determination requiring repayment of the overpaid benefits, and assess any applicable penalties and interest.

(c) Before a determination provided for in subsection (3) of this section becomes final or an appeal is filed, the department, on its own motion, may issue a revised determination. The determination or revised determination shall become final unless, within fourteen (14) days after notice, as provided in subsection (5) of this section, an appeal is filed by an interested party with the department.

(4) (a) Upon appeal of a determination or revised determination, the director shall transfer the appeal directly to an appeals examiner pursuant to subsection (6) of this section, unless the director finds, in his sole discretion, that a redetermination should be issued affirming, reversing or modifying the determination or revised determination. The redetermination shall become final unless, within fourteen (14) days after notice as provided in subsection (5) of this section, an appeal is filed by an interested party with the department in accordance with the department's rules.

(b) The director may, in his sole discretion, make a special redetermination whenever he finds that a departmental error has occurred in connection with a determination, revised determination or redetermination that has become final, or that additional wages of the claimant or other facts pertinent to such final determination, revised determination or redetermination have become available or have been newly discovered, or that benefits have been allowed or denied or the amount of benefits fixed on the basis of nondisclosure or misrepresentation of fact. The special redetermination must be made within one (1) year from the date the determination, revised determination or redetermination became final, except that a special redetermination involving a finding that benefits have been allowed or denied or the amount of benefits fixed on the basis of nondisclosures or misrepresentations of fact may

be made within two (2) years from the date the determination, revised determination or redetermination became final.

(5) All interested parties shall be entitled to prompt service of notice of written or digital communications from the department providing notice of an administrative or other deadline including, but not limited to, determinations, revised determinations, redeterminations, special redeterminations, and decisions and letters from the department requiring a response within a specified time. A notice shall be deemed served if delivered to the person being served, if mailed to his last known address or if electronically transmitted to him at his request and with the department's approval. Service by mail shall be deemed complete on the date of mailing. Service by electronic transmission shall be deemed complete on the date notice is electronically transmitted.

(6) To hear and decide appeals from determinations, revised determinations, redeterminations, and special redeterminations, the director shall appoint appeals examiners. Unless the appeal is withdrawn, the appeals examiner shall affirm, modify, set aside or reverse the determination, revised determination, redetermination, or special redetermination involved, after affording the interested parties reasonable opportunity for a fair hearing, or may refer a matter back to the department for further action. The appeals examiner shall notify the interested parties of his decision by serving notice in the same manner as provided in subsection (5) of this section. The decision shall set forth findings of fact and conclusions of law. The appeals examiner may, either upon application for rehearing by an interested party or on his own motion, rehear, affirm, modify, set aside or reverse any prior decision on the basis of the evidence previously submitted or on the basis of additional evidence; provided, that such application or motion be made within ten (10) days after the date of service of the decision. A complete record shall be kept of all proceedings in connection with an appealed claim. All testimony at any hearing shall be recorded. If a claim for review of the appeals examiner's decision is filed with the commission, the testimony shall be transcribed if ordered by the commission. Witnesses subpoenaed by the appeals examiner shall be allowed fees at a rate prescribed by the director. If any interested party to a hearing formally requests the appeals examiner to issue a subpoena for a witness whose evidence is deemed necessary, the appeals examiner shall promptly issue the subpoena, unless such request is determined to be unreasonable. Unless an interested party shall within fourteen (14) days after service of the decision of the appeals examiner file with the commission a claim for review or unless an application or motion is made for a rehearing of such decision, the decision of the appeals examiner shall become final.

(7) The commission shall decide all claims for review filed by any interested party in accordance with its own rules of procedure not in conflict herewith. The record before the commission shall consist of the record of proceedings before the appeals examiner, unless it appears to the commission that the interests of justice require that the interested parties be permitted to present additional evidence. In that event, the commission may, in its sole discretion, conduct a hearing or may remand the matter back to the appeals examiner for an additional hearing and decision. On the basis of the record of proceedings before the appeals examiner as well as additional evidence, if allowed, the commission shall affirm, reverse, modify, set aside or revise the decision of the appeals examiner or may refer the matter back to the appeals examiner for further proceedings. The commission shall file its decision and shall promptly serve notice of its decision to all interested parties. A decision of the commission shall be final and conclusive as to all matters adjudicated by the commission upon filing the decision in the office of the commission; provided, within twenty (20) days from the date of filing the decision, any party may move for reconsideration of the decision or the commission may rehear or reconsider its decision on its own initiative. The

decision shall be final upon denial of a motion for rehearing or reconsideration or the filing of the decision on reconsideration.

(8) No person acting on behalf of the director or any member of the commission shall participate in any case in which he has a direct or indirect personal interest.

(9) An appeal may be made to the Supreme Court from decisions and orders of the commission within the times and in the manner prescribed by rule of the Supreme Court.

(10) (a) Benefits shall be paid promptly in accordance with any decision allowing benefits, regardless of:

(i) The pendency of a time period for filing an appeal or petitioning for commission review; or

(ii) The pendency of an appeal or petition for review.

(b) Such payments shall not be withheld until a subsequent appeals examiner decision or commission decision modifies or reverses the previous decision, in which event benefits shall be paid or denied in accordance with such decision.

(11) (a) Any right, fact, or matter in issue, directly based upon or necessarily involved in a determination, redetermination, decision of the appeals examiner or decision of the commission which has become final, shall be conclusive for all the purposes of this chapter as between the interested parties who had notice of such determination, redetermination or decision. Subject to appeal proceedings and judicial review by the Supreme Court as set forth in this section, any determination, redetermination or decision as to rights to benefits shall be conclusive for all purposes of this chapter and shall not be subject to collateral attack irrespective of notice.

(b) No finding of fact or conclusion of law contained in a decision or determination rendered pursuant to this chapter by an appeals examiner, the industrial commission, a court, or any other person authorized to make such determinations shall have preclusive effect in any other action or proceeding, except proceedings that are brought (i) pursuant to this chapter, (ii) to collect unemployment insurance contributions, (iii) to recover overpayments of unemployment insurance benefits, or (iv) to challenge the constitutionality of provisions of this chapter or administrative proceedings under this chapter.

(12) The provisions of the Idaho administrative procedure act, chapter 52, title 67, Idaho Code, regarding contested cases and judicial review of contested cases are inapplicable to proceedings involving claimants under the provisions of this chapter.

Approved March 22, 2016

CHAPTER 127
(S.B. No. 1212)

AN ACT

RELATING TO THE EMERGENCY COMMUNICATIONS ACT; AMENDING SECTION 31-4801, IDAHO CODE, TO ESTABLISH THE IDAHO PUBLIC SAFETY COMMUNICATIONS COMMISSION AND TO PROVIDE FOR CERTAIN DUTIES AND SERVICES; AMENDING SECTION 31-4802, IDAHO CODE, TO PROVIDE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 31-4804, IDAHO CODE, TO EXPAND THE USE OF THE EMERGENCY COMMUNICATIONS FEE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 31-4804A, IDAHO CODE, TO AUTHORIZE THE ESTABLISHMENT OF NEXT GENERATION CONSOLIDATED EMERGENCY SYSTEMS; AMENDING SECTION 31-4815, IDAHO CODE, TO PROVIDE FOR THE MEMBERSHIP OF THE IDAHO PUBLIC SAFETY COMMUNICATIONS COMMISSION; AMENDING SECTION 31-4816, IDAHO

CODE, TO PROVIDE FOR THE RESPONSIBILITIES OF THE IDAHO PUBLIC SAFETY COMMUNICATIONS COMMISSION; AMENDING SECTION 31-4817, IDAHO CODE, TO PROVIDE FOR MEDIATION REGARDING INTEROPERABLE PUBLIC SAFETY COMMUNICATIONS AND DATA SYSTEMS; AMENDING SECTION 31-4819, IDAHO CODE, TO PROVIDE FOR THE BUDGETING AND USE OF THE ENHANCED EMERGENCY COMMUNICATIONS GRANT FUNDS; AMENDING CHAPTER 48, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-4820, IDAHO CODE, TO ESTABLISH THE IDAHO PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS AND DATA SYSTEMS FUND; AMENDING CHAPTER 48, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-4821, IDAHO CODE, TO AUTHORIZE ADMINISTRATIVE SUPPORT FOR THE COMMISSION; AND REPEALING CHAPTER 12, TITLE 46, IDAHO CODE, RELATING TO STATEWIDE COMMUNICATIONS INTEROPERABILITY.

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

SECTION 1. That Section 31-4801, Idaho Code, be, and the same is hereby amended to read as follows:

31-4801. PURPOSE. The legislature recognizes that providing consolidated emergency communications systems and interoperable public safety communications and data systems is vital in enhancing the public health, safety, and welfare of the ~~residents of~~ people in the state of Idaho. The legislature further finds that there is an obvious need for providing a means to finance the initiation, maintenance, operation, enhancement and governance of interoperable and consolidated emergency communications systems.

(1) The legislature of the state of Idaho finds that:

(a) Since the original enactment of the emergency communications act in 1988, many of Idaho's communities have found that they are lacking in the resources to fully fund emergency communications systems at the local level;

(b) Changes in technology and the rapid growth of communications media have demonstrated that financing such systems solely by a line charge on subscribers to wireline services does not reflect utilization of emergency communications systems by subscribers to wireless and other forms of communications systems;

(c) There is a need to enhance funding for the initiation and enhancement of consolidated emergency communications systems throughout the state;

(d) Utilization of cellular telephones and voice over internet protocol (VoIP) communications to access emergency communications systems has substantially increased citizen access to emergency services while at the same time increasing demands upon the emergency response system;

(e) In order to protect and promote the public health and safety, and to keep pace with advances in telecommunications technology and the various choices of telecommunications technology available to the public, there is a need to plan and develop a statewide coordinated policy and program to ensure that enhanced 911 services, next generation 911 services, and future and emerging public safety technologies are available to all citizens of the state and people in all areas of the state.

(2) Therefore, it is hereby declared that the intent and purpose of the provisions of this act are to:

(a) Provide authority to counties and 911 service areas to impose an emergency communications fee on the use of telephone lines, wireless, VoIP or other communications services that connect an individual or entity dialing or accessing 911 to an established public safety answering point;

(b) Provide that the emergency communications fee in section 31-4803, Idaho Code, shall be exclusively utilized by the counties or 911 service

areas electing to impose it to finance the initiation, maintenance, operation, enhancement and governance of consolidated emergency systems as well as enhanced consolidated emergency systems or next generation consolidated emergency systems;

(c) Provide for the agreed-to reimbursement to telecommunications providers for their implementation of enhanced consolidated emergency communications systems by counties or 911 service areas that have implemented enhanced consolidated emergency communications systems;

(d) Create the Idaho public safety communications commission that will have the duty to provide the governance structure through which public safety communications stakeholders can collaborate to advance consistency and common objectives, to provide integrated facilitation and coordination for cross-jurisdictional consensus building, to assist in the standardization of agreements for sharing resources among jurisdictions with emergency response communications infrastructure, to suggest best practices, performance measures and performance evaluation in the integrated statewide strategic planning and implementation of interoperability among public safety communications professionals and entities that serve people in Idaho regardless of jurisdiction, to manage the Idaho public safety interoperable communications and data systems fund as established by section 31-4820, Idaho Code, and to pursue budget authorizations as set forth in this chapter.

SECTION 2. That Section 31-4802, Idaho Code, be, and the same is hereby amended to read as follows:

31-4802. DEFINITIONS. As used in this chapter:

(1) "Access line" means any telephone line, trunk line, network access register, dedicated radio signal, or equivalent that provides switched telecommunications access to a consolidated emergency communications system from either a service address or a place of primary use within this state. In the case of wireless technology, each active dedicated telephone number shall be considered a single access line.

(2) "Administrator" means the person, officer or agency designated to operate a consolidated emergency communications system, and to receive funds for such an operation.

(3) "Basic consolidated emergency system" means consolidated emergency systems that are not enhanced.

(4) "Consolidated emergency communications system" means facilities, equipment and dispatching services directly related to establishing, maintaining, or enhancing a 911 emergency communications service.

(5) "District interoperability governance board" (DIGB) means any one (1) of the six (6) regional governing bodies, comprised of representatives and organized to provide input to the Idaho public safety communications commission regarding the commission's objectives and regarding consolidated emergency communications and interoperable public safety communications and data systems for the agencies and organizations within its own geographic area. District one includes the area composed of Benewah, Bonner, Boundary, Kootenai and Shoshone counties. District two includes the area composed of Clearwater, Idaho, Latah, Lewis and Nez Perce counties. District three includes the area composed of Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley and Washington counties. District four includes the area composed of Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka and Twin Falls counties. District five includes the area composed of Bannock, Bear Lake, Bingham, Butte, Caribou, Franklin, Oneida and Power counties. District six includes the area composed of Bonneville, Clark, Custer, Fremont, Jefferson, Lemhi, Madison and Teton counties.

(6) "Emergency communications fee" means the fee provided for in section 31-4803, Idaho Code.

(67) "Enhanced consolidated emergency system" means consolidated emergency systems that provide enhanced wireless 911 service and include, but are not limited to, the technological capability to provide call back numbers, cell site locations, and the location of calls by latitude and longitude and made through the systems of wireless carriers.

(78) "Governing board" means the joint powers board, if the 911 service area is a multicounty area, or the board of county commissioners of the county or the city council if the 911 service area is a city, or both the board of county commissioners and the city council if the 911 service area includes both city and county residents but not the entire county.

(9) "Governor's appointment" means the power and procedures of the governor to appoint members to statewide commissions as provided for in section 67-802, Idaho Code.

(810) "Interconnected" means the ability of the user to receive calls from and terminate calls to the public switched telephone network (PSTN) or emergency services internet protocol network (ESInet), including commercial mobile radio service (CMRS) networks.

(911) "Interconnected VoIP service" means a service bearing the following characteristics:

(a) The service enables real-time, two-way voice communications;

(b) The service requires a broadband connection from the user's location;

(c) The service requires IP-compatible customer premises equipment; and

(d) The service permits users to receive calls that originate on the public switched telephone network (PSTN) or ESInet and to terminate calls on the PSTN or ESInet.

(102) "Interconnected VoIP service line" means an interconnected VoIP service that offers an active telephone number, or successor dialing protocol assigned by a VoIP provider to a VoIP service customer number that has an outbound calling capability of directly accessing a public safety answering point.

(13) "Interoperable public safety communications and data systems" means facilities, equipment, networks, services, software and infrastructure directly related to establishing, maintaining or enhancing systems to exchange voice, video or other public safety data, to include future technology advancements.

(14) "Interoperability" means the ability of public safety service and support providers, law enforcement, public utilities, transportation and others to communicate when necessary with staff from other responding agencies, and to exchange voice, video, and data on demand, in real time, and when authorized.

(15) "Next generation consolidated emergency system" or "NG911" means consolidated emergency communications systems that provide an internet protocol (IP) based system of managed emergency services IP networks (ESInets), functional elements (applications), and databases that replicate traditional E911 features and functions and provide additional capabilities. NG911 is designed to provide access to emergency services from all connected communications sources and to provide multimedia data capabilities for public safety answering points (PSAPs) and other emergency service organizations through current and emerging technology systems.

(116) "911 service area" means a regional, multicounty, county or area other than a whole county in which area the residents have voted to establish a consolidated emergency communications system.

(127) "Place of primary use" means the residential street address or the primary business street address in Idaho where the customer's use of the wireless or VoIP service primarily occurs. For the purposes of 911 fees imposed upon interconnected VoIP service lines, the place of primary use

shall be the customer's registered location on the date the customer is billed.

(18) "Public safety communications and data systems" refers to the general systematic ability of people or entities to communicate or manage data with other people or entities using technology for the purpose of reporting and responding to situations that require a public safety response. This term does not refer to any existing state agency, division or office, building, network, personnel, or fund and is not related to the Idaho military division's unit of public safety communications.

(19) "Public safety communications stakeholders" means any city, county, fire district, ambulance district, and the state.

(1320) "Telecommunications provider" means any person or entity providing:

- (a) Exchange telephone service to a service address within this state; or
- (b) Any wireless carrier providing telecommunications service to any customer having a place of primary use within this state; or
- (c) Interconnected VoIP service to any customer having a place of primary use within this state; or
- (d) A provider of any other communications service that connects an individual having either a service address or a place of primary use within this state to an established public safety answering point by dialing 911.

(1421) "VoIP service provider" means any person or entity providing interconnected voice over internet protocol (VoIP) service.

(1522) "Wireless carrier" means a cellular licensee, a personal communications service licensee, and certain specialized mobile radio providers designated as covered carriers by the federal communications commission in 47 CFR 20.18 and any successor to such rule.

SECTION 3. That Section 31-4804, Idaho Code, be, and the same is hereby amended to read as follows:

31-4804. EMERGENCY COMMUNICATIONS FEE. (1) The emergency communications fee provided pursuant to the provisions of this chapter shall be a uniform amount not to exceed one dollar (\$1.00) per month per access or interconnected VoIP service line, and such fee shall be used exclusively to finance the initiation, maintenance, operation, enhancement and governance of a consolidated emergency communications system and provide for the reimbursement of telecommunications providers for implementing enhanced consolidated emergency systems as provided for in section 31-4804A, Idaho Code. All emergency communications fees collected and expended pursuant to this section shall be audited by an independent, third-party auditor ordinarily retained by the governing board for auditing purposes. The purpose of the audit as related to emergency communications systems is to verify the accuracy and completeness of fees collected and costs expended.

(2) The fee shall be imposed upon and collected from purchasers of access lines or interconnected VoIP service lines with a service address or place of primary use within the county or 911 service area on a monthly basis by all telecommunications providers of such services. The fee may be listed as a separate item on customers' monthly bills.

(3) The telecommunications providers shall remit such fee to the county treasurer's office or the administrator for the 911 service area based upon the 911 service area from which the fees were collected. In the event the telecommunications provider remits such fees based upon the emergency communications fee billed to the customer, a deduction shall be allowed for uncollected amounts when such amounts are treated as bad debt for financial reporting purposes.

(4) From every remittance to the governing body made on or before the date when the same becomes due, the telecommunications provider required to remit the same shall be entitled to deduct and retain one percent (1%) of the collected amount as the cost of administration for collecting the charge. Telecommunications providers will be allowed to list the surcharge as a separate item on the telephone subscriber's bill, and shall have no obligation to take any legal action to enforce the collection of any charge, nor be held liable for such uncollected amounts.

(5) Use of fees. The emergency communications fee provided hereunder shall be used only to pay for the lease, purchase or maintenance of emergency communications equipment for basic and enhanced consolidated emergency systems, and next generation consolidated emergency systems (NG911), including necessary computer hardware, software, database provisioning, training, salaries directly related to such systems, costs of establishing such systems, management, maintenance and operation of hardware and software applications and agreed-to reimbursement costs of telecommunications providers related to the operation of such systems. Use of the emergency communications fee should, if possible, coincide with the strategic goals as identified by the Idaho public safety communications commission in its annual report to the legislature. However, the county or 911 service area governing board has final authority on lawful expenditures. All other expenditures necessary to operate such systems and other normal and necessary safety or law enforcement functions including, but not limited to, those expenditures related to overhead, staffing, dispatching, administrative and other day-to-day operational expenditures, shall continue to be paid through the general funding of the respective governing boards; provided however, that any governing body using the emergency communications fee to pay the salaries of dispatchers as of March 1, 2006, may continue to do so until the beginning of such governing body's 2007 fiscal year.

SECTION 4. That Section 31-4804A, Idaho Code, be, and the same is hereby amended to read as follows:

31-4804A. ESTABLISHMENT OF ENHANCED CONSOLIDATED EMERGENCY COMMUNICATIONS SYSTEMS OR NEXT GENERATION CONSOLIDATED EMERGENCY SYSTEMS. (1) Any county or 911 service area that has established a basic consolidated emergency system may establish an enhanced consolidated emergency system or next generation consolidated emergency system by action of the governing board of the basic consolidated emergency system.

(2) The governing boards establishing enhanced consolidated emergency systems or next generation consolidated emergency systems shall request that wireless carriers serving such counties or 911 service areas collectively implement an enhanced consolidated emergency communications system within a reasonable time. When so requested, all wireless carriers serving such counties or 911 service areas shall implement enhanced consolidated emergency communications systems or next generation consolidated emergency systems within a reasonable time. The governing boards and wireless carriers shall enter into agreements that:

(a) Establish the scope and purpose of the proposed enhanced consolidated emergency communications systems and next generation consolidated emergency systems.

(b) Provide for an agreed-to level of reimbursement for telecommunications providers for the costs of wireless carriers resulting from their implementation and operation of enhanced emergency communications systems or next generation consolidated emergency systems that may include the acquisition, construction, financing, installation and operation of all equipment and facilities necessary to implement such enhanced systems.

(c) Provide that the agreed-to level of reimbursement for telecommunications providers for enhanced 911 service may include the costs and expenses incurred for designing, upgrading, purchasing, leasing, programming, installing, testing, or maintaining all necessary data, hardware and software required in order to provide such service as well as the recurring and nonrecurring costs of operating such service. All costs and expenses must be commercially reasonable.

(d) Provide that reimbursement to a telecommunications provider shall be nondiscriminatory and be made available to all other telecommunications providers.

Agreements shall provide for prompt reimbursement on invoices submitted by wireless carriers to the governing board.

SECTION 5. That Section 31-4815, Idaho Code, be, and the same is hereby amended to read as follows:

31-4815. CREATION OF THE IDAHO EMERGENCY PUBLIC SAFETY COMMUNICATIONS COMMISSION -- TERMS. (1) There is hereby created in the military division an Idaho emergency public safety communications commission (hereinafter referred to as "the commission") ~~for with the purposes identified of assisting cities, counties, ambulance districts and fire districts in the establishment, management, operations and accountability of consolidated emergency communications systems~~ section 31-4801 (2) (d), Idaho Code.

(2) Notwithstanding any other provision of law to the contrary, the commission shall, upon being constituted, exercise its powers and duties in accordance with the provisions of this section relative to consolidated emergency communications and interoperable public safety communications and data systems in this state established by enactment of the legislature or by private act.

(3) All members of the commission will be appointed by the governor and will serve at the pleasure of the governor.

(24) The commission shall be composed of ~~thirteen~~ eighteen (138) voting members, ~~with eleven (11) appointed by the governor as follows. The statewide interoperability coordinator of the Idaho bureau of homeland security will not be a member of the commission, but shall report quarterly to the commission.~~

(5) Appointment by the governor will include the following voting members:

(a) The director of the Idaho bureau of homeland security or a designated representative and the director of the Idaho state police or a designated representative.

(b) The chair of the Idaho technology authority and one (1) legislator selected by joint approval from the speaker of the house of representatives and the president pro tempore of the senate.

(c) The governor will receive suggested names of candidates and alternates for representation from the following and will appoint at his own discretion one (1) representative as a voting member from each: one (1) member representing the association of Idaho cities, one (1) member representing the Idaho association of counties, ~~one two~~ (12) members representing the Idaho sheriffs' association, one (1) member representing the Idaho chiefs of police association, one (1) member representing the Idaho fire chiefs association, one (1) member representing the Idaho prosecuting attorneys association, ~~one (1) member representing the Idaho health and welfare department's state emergency medical services communications center, and one (1) member representing the Idaho emergency medical services association, one (1) member representing the public at large and two (2) members representing private industry service providers, one (1) from the wireless industry~~

~~and one (1) from the traditional phone service industry Native American tribes of the state.~~

~~(d) The commission shall also include the director of the Idaho state police or a designated representative and the adjutant general or a designated representative. One (1) representative of the attorney general shall serve as a nonvoting ex officio member Six (6) district interoperable governance board (DIGB) representatives. Each district shall select from the following to represent its district: a county commissioner, sheriff, mayor, chief of police, fire service chief, public safety answering point manager, public safety technology manager or emergency medical services manager.~~

~~(6) Commission representatives shall be appointed by the governor as follows:~~

~~(a) Each association, entity or DIGB shall select one (1) primary and one (1) alternate candidate to represent the association, entity or DIGB. Following administrative procedures guidelines, both names shall be submitted to the administrative agency responsible for these tasks, which is the Idaho bureau of homeland security, within thirty (30) days after a term expires or a vacancy occurs. The Idaho bureau of homeland security will then forward each entity's names to the governor for consideration and appointment to the commission.~~

~~(b) Should any association, entity or DIGB fail to submit the names of the candidate and the alternate as directed in this subsection, the commission shall select a candidate and alternate from the association, entity or district and submit those names to the governor for consideration and appointment to the commission.~~

~~(37) Except as provided in this subsection, members of the commission shall be appointed for to a term of four (4) years. The following five (5) members shall be appointed to an initial term of two (2) years: the member representing the Idaho fire chiefs association, the member representing the Idaho state chiefs of police association, one (1) member representing the Idaho sheriffs' association, the member representing the Idaho department of health and welfare emergency medical services communications center, the member representing the Idaho emergency medical services association, the member representing the wireless industry Native American tribes, and one (1) the member representing from the public state legislature, the chair of the Idaho technology authority, and the representatives of DIGBs one, three and five. The remaining six (6) members appointed by the governor shall be appointed for an initial term of four (4) years. Thereafter, all terms shall be for a period of four (4) years.~~

~~(48) The commission shall elect recommend to the governor a list of candidates to be appointed to a four-year term as chair. The governor shall appoint the chair from the list of candidates. The commission shall elect a vice-chair and such officers as it may deem necessary and appropriate. The commission shall meet at least annually and at the call of the chair. Members of the commission shall be compensated as provided in section 59-509(b), Idaho Code. Compensation shall be paid from the emergency communications fund created in section 31-4818, Idaho Code.~~

SECTION 6. That Section 31-4816, Idaho Code, be, and the same is hereby amended to read as follows:

31-4816. IDAHO EMERGENCY PUBLIC SAFETY COMMUNICATIONS COMMISSION -- PURPOSES AND RESPONSIBILITIES. The purposes and responsibilities of the commission are to:

(1) Determine the status and operability of consolidated emergency communications systems and interoperable public safety communications and data systems statewide;

- (2) Determine the needs for the upgrade of consolidated emergency communications systems and interoperable public safety communications and data systems;
- (3) Determine the costs for the upgrades;
- (4) Recommend guidelines and standards for operation of consolidated emergency communications systems and interoperable public safety communications and data systems;
- (5) Recommend funding mechanisms for future implementation of upgrades;
- (6) Serve as a conduit for the future allocation of federal grant funds to support the delivery of consolidated emergency communications systems and interoperable public safety communications and data systems;
- (7) Serve as the statewide interoperability executive committee (SIEC) for issues related to public safety communications and data communication. Such issues may involve the federal communications commission, national telecommunications information administration and first responder network authority;
- (8) Perform an annual review of the statewide communications interoperability plan and provide the statewide interoperability coordinator with guidance to improve operational and interoperable communications in the state;
- (9) Designate working groups or subcommittees as appropriate, which may include consolidated emergency communications, information technology, cross-jurisdictional relations with Native American tribes, interoperable public safety communications and data systems, the national public safety broadband network or future technologies, and others as deemed necessary by the commission;
- (10) Report annually to the legislature of the state of Idaho on the planned expenditures for the next fiscal year, the collected revenues and moneys disbursed from the fund and programs or projects in progress, completed or anticipated;
- (11) Enter into contracts with experts, agents, employees or consultants as may be necessary to carry out the purposes of this chapter; and
- (12) Assist public safety communications stakeholders in the establishment of consolidated emergency communications systems and public safety communications and data systems, and to provide the governance structure through which public safety communications stakeholders can collaborate to advance consistency and common objectives;
- (13) Provide integrated facilitation and coordination for cross-jurisdictional consensus building;
- (14) Assist in the standardization of agreements for sharing resources among jurisdictions with emergency response communications infrastructure;
- (15) Suggest best practices, performance measures and performance evaluation in the integrated statewide strategic planning and implementation of interoperability;
- (16) Manage funds as authorized by this chapter;
- (17) Pursue budget authorizations for interoperable public safety communications and data systems; and
- (18) Promulgate rules pursuant to the provisions of chapter 52, title 67, Idaho Code, to carry out the purposes of the commission's duties.

SECTION 7. That Section 31-4817, Idaho Code, be, and the same is hereby amended to read as follows:

31-4817. IDAHO EMERGENCY PUBLIC SAFETY COMMUNICATIONS COMMISSION -- MEDIATION. In the event that a dispute arises between local government entities over the governance of operations of consolidated emergency communications systems and interoperable public safety communications and data systems, those local governments shall be required, prior to initiating any

legal action, to submit the contested issue or issues to the commission for purposes of mediation. The commission shall have sixty (60) days from the date of submission of any issues to mediate and recommend a course of action to the local governments involved in the dispute. Any recommendation of the commission shall be advisory only and shall not be binding on the parties involved. After receipt of any recommendation by the commission, the local governments may accept in whole or in part the recommendations or may initiate legal action as provided by contract or law.

SECTION 8. That Section 31-4819, Idaho Code, be, and the same is hereby amended to read as follows:

31-4819. ENHANCED EMERGENCY COMMUNICATIONS GRANT FEE. (1) On and after July 1, 2013, there shall be an enhanced emergency communications grant fee established by virtue of authority granted by this chapter. The fee shall be twenty-five cents (25¢) per month per access or interconnected VoIP service line.

(a) Such fee shall be authorized by resolution of a majority vote of the board of commissioners of a countywide system or by the governing board of a 911 service area.

(b) Such fee shall be remitted to the Idaho emergency communications fund provided in section 31-4818(1), Idaho Code, on a quarterly basis by county, city or consolidated emergency communications systems. Such fee Annually, at the discretion of the commission, a budget shall be prepared allocating a portion of the available grant funds for administration of the grant program. The remaining grant funds shall be dedicated for and shall be authorized for disbursement as grants to eligible entities that are operating consolidated emergency communications systems for use to achieve the purposes of this chapter. Grant funds shall coincide with the strategic goals as identified by the commission in its annual report to the legislature. Grant funds may also be budgeted for and utilized for the establishment of next generation consolidated emergency systems (NG911) within the state.

(2) The commission, on an annual basis, shall prepare a budget allocating the grant funds available to eligible entities and the portion of the funds necessary for the continuous operation of the commission to achieve the purposes of this chapter.

(3) To be eligible for grant funds under this chapter, a county or 911 service area must be collecting the emergency communications fee in accordance with section 31-4804, Idaho Code, in the full amount authorized and must also be collecting the enhanced emergency communications grant fee in the full amount authorized in this subsection.

(4) If a county or 911 service area has authorized the collection of the enhanced emergency communications grant fee pursuant to this chapter, such county or 911 service area shall retain the full amount of the emergency communications fee that was set by the board of commissioners or governing board pursuant to section 31-4803, Idaho Code. The county or 911 service area is then also exempt from remitting to the Idaho emergency public safety communications commission one percent (1%) of the total emergency communications fee received by the county or 911 service area as required in section 31-4818(3), Idaho Code. The remaining funds from the enhanced emergency communications grant fee collected shall then be remitted by the county or 911 service area to the Idaho emergency public safety communications commission.

SECTION 9. That Chapter 48, Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 31-4820, Idaho Code, and to read as follows:

31-4820. IDAHO PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS AND DATA SYSTEMS FUND -- ESTABLISHMENT AND ADMINISTRATION. (1) There is hereby created within the treasury of the state of Idaho a separate fund known as the Idaho public safety interoperable communications and data systems fund. This fund may consist of moneys received from the state, counties, cities, grants, donations, gifts and other revenues.

(2) Moneys in the fund are hereby continuously appropriated and shall be utilized exclusively for the purposes set forth in this chapter.

(3) Annually, at the direction of the commission, a budget shall be prepared allocating a portion of the available funds for administration of the public safety interoperable communications and data systems programs, for the purposes of this section.

SECTION 10. That Chapter 48, Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 31-4821, Idaho Code, and to read as follows:

31-4821. ADMINISTRATIVE SUPPORT. The commission may, with consensus of the governor and legislature of the state of Idaho, create positions including, but not limited to, executive director, 911 program manager, 911 grants manager, statewide interoperability coordinator, national public safety broadband network program manager, or other administrative support positions as required to carry out the provisions of this chapter. In accordance with the law of the state of Idaho, and striving to keep administrative costs to a minimum, the commission may hire, fix the compensation and prescribe the powers and duties of such individuals.

SECTION 11. That Chapter 12, Title 46, Idaho Code, be, and the same is hereby repealed.

Approved March 22, 2016

CHAPTER 128
(S.B. No. 1239)

AN ACT

RELATING TO ENVIRONMENTAL QUALITY; AMENDING CHAPTER 1, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-175D, IDAHO CODE, TO REQUIRE PUBLIC NOTICE AND OPPORTUNITY TO COMMENT ON TENTATIVE DECISIONS BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY REGARDING IDAHO POLLUTANT DISCHARGE ELIMINATION SYSTEM (IPDES) PERMITS, TO PROVIDE FOR AN ADMINISTRATIVE RECORD, TO PROVIDE THAT CERTAIN PROVISIONS OF LAW SHALL NOT APPLY TO FINAL DECISIONS, TO PROVIDE FOR APPEALS OF CERTAIN FINAL DECISIONS, TO PROHIBIT CERTAIN CONFLICTS OF INTEREST, TO PROVIDE FOR JUDICIAL REVIEW AND TO PROVIDE FOR THE ADOPTION OF RULES; AND AMENDING CHAPTER 1, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-175E, IDAHO CODE, TO PROVIDE THAT SPECIFIED PROVISIONS OF LAW SHALL APPLY TO THE IPDES PROGRAM AND TO PROVIDE FOR THE ENFORCEMENT OF PRETREATMENT STANDARDS.

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

SECTION 1. That Chapter 1, 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 39-175D, Idaho Code, and to read as follows:

39-175D. IDAHO POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT DECISIONS AND APPEAL OF DECISIONS. (1) Prior to making a final decision regarding

Idaho pollutant discharge elimination system (IPDES) permits authorized by sections 39-175A through 39-175C, Idaho Code, the department shall provide the public notice and an opportunity to comment on the department's tentative decision. The department shall develop an administrative record that shall, at a minimum, include the tentative decision, all comments received, the department's response to comments and the basis for the department's decision. The decision-making process and the final decision with respect to IPDES permits shall not be subject to the contested case provisions set forth in chapter 52, title 67, Idaho Code.

(2) Notwithstanding any other provision of law, including without limitation, chapter 52, title 67, Idaho Code, the exclusive means of appealing the department's final decision regarding an IPDES permit shall be as set forth in this section and in rules authorized by this section and sections 39-175A through 39-175C, Idaho Code. Any person aggrieved by the department's final decision regarding an IPDES permit may appeal that decision. The appeal of the decision shall be heard by a hearing officer appointed by the director from a pool of hearing officers approved by the board. Hearing officers should be persons with technical expertise or experience in the issues presented in appeals. All appeals shall be based solely on the record developed by the department as required by subsection (1) of this section and the rules adopted by the board, and no further or additional evidence may be presented except as provided in rules adopted by the board.

(3) No person, including the director and hearing officer, who has or shares authority to approve all or portions of IPDES permits either in the first instance, as modified or reissued, or on appeal, shall have a conflict of interest as defined in 40 CFR 123.25(c).

(4) Any person aggrieved by a final determination of the hearing officer regarding an IPDES permit may secure judicial review by filing a petition for review as prescribed under the rules adopted by the board and the provisions of chapter 52, title 67, Idaho Code. The petition for review shall be served upon the hearing officer, the director of the department and the attorney general. Such service shall be jurisdictional, and the provisions of this section shall be the exclusive procedure for appeal.

(5) The board shall adopt rules consistent with the provisions of this section.

SECTION 2. That Chapter 1, 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 39-175E, Idaho Code, and to read as follows:

39-175E. IDAHO POLLUTANT DISCHARGE ELIMINATION SYSTEM PROGRAM INVESTIGATION, INSPECTION AND ENFORCEMENT AUTHORITIES. (1) All investigation, inspection and enforcement authorities and requirements set forth in the environmental protection and health act, sections 39-101 through 39-130, Idaho Code, shall be available to the department and shall apply with respect to the Idaho pollutant discharge elimination system (IPDES) program. Such authorities include, without limitation, the authorities in sections 39-108, 39-109 and 39-117, Idaho Code, which shall be available to the department to conduct investigations, inspections and enforcement relating to violations of the rules, permits, requirements or orders issued or adopted pursuant to sections 39-175A through 39-175E, Idaho Code.

(2) The department is further authorized to enforce, through the authorities provided in this section, pretreatment standards, including local limits, developed and adopted by publicly owned treatment works, as required by 40 CFR 403.10(f)(1)(iv).

CHAPTER 129
(S.B. No. 1260, As Amended)

AN ACT

RELATING TO ANIMALS AND THE ENVIRONMENT; AMENDING SECTION 22-4902, IDAHO CODE, TO REVISE A DECLARATION OF POLICY AND STATEMENT OF LEGISLATIVE INTENT AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 22-4903, IDAHO CODE, TO REVISE THE AUTHORITIES AND DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE REGARDING BEEF CATTLE ANIMAL FEEDING OPERATIONS, TO PROVIDE THAT CERTAIN SPECIFIED LAW SHALL NOT AFFECT THE AUTHORITY OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO ADMINISTER AND ENFORCE AN IDAHO NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PROGRAM, TO PROVIDE FOR THE ESTABLISHMENT OF AN AGREEMENT BETWEEN THE DEPARTMENT OF AGRICULTURE AND THE DEPARTMENT OF ENVIRONMENTAL QUALITY REGARDING THE ADMINISTRATION OF AN IDAHO NPDES PROGRAM AND TO PROVIDE FOR THE DELEGATION OF CERTAIN AUTHORITY; AMENDING SECTION 22-4904, IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 22-4907, IDAHO CODE, TO REVISE INSPECTION PROVISIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-4909A, IDAHO CODE, TO REVISE PROVISIONS REGARDING AUTHORIZATION TO ADMINISTER LAWS RELATING TO WATER QUALITY WITHIN CERTAIN OPERATIONS; REPEALING SECTION 37-602, IDAHO CODE, RELATING TO LEGISLATIVE INTENT; AMENDING CHAPTER 6, TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 37-602, IDAHO CODE, TO PROVIDE LEGISLATIVE FINDINGS AND PURPOSES; AMENDING SECTION 37-603, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE AUTHORITY OF THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE, TO PROVIDE FOR AGENCY COORDINATION, TO PROVIDE THAT CERTAIN SPECIFIED LAW SHALL NOT AFFECT THE AUTHORITY OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO ADMINISTER AND ENFORCE AN IDAHO NPDES PROGRAM AND TO PROVIDE FOR THE ESTABLISHMENT OF AN AGREEMENT BETWEEN THE DEPARTMENT OF AGRICULTURE AND THE DEPARTMENT OF ENVIRONMENTAL QUALITY REGARDING THE ADMINISTRATION OF AN IDAHO NPDES PROGRAM; AMENDING SECTION 37-604, IDAHO CODE, TO REVISE DEFINITIONS, TO DEFINE TERMS AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 37-605, IDAHO CODE, RELATING TO DESIGN AND CONSTRUCTION; AMENDING CHAPTER 6, TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 37-605, IDAHO CODE, TO PROVIDE FOR DAIRY STORAGE AND CONTAINMENT FACILITY DESIGN AND CONSTRUCTION, TO PROVIDE THAT DESIGN, CONSTRUCTION, OPERATION AND MAINTENANCE IN ACCORDANCE WITH CERTAIN CRITERIA SHALL BE CONSIDERED A BEST MANAGEMENT PRACTICE, TO REQUIRE APPROVAL OF FACILITIES BY THE DEPARTMENT OF AGRICULTURE, TO PROVIDE THAT STORAGE AND CONTAINMENT FACILITIES CRITERIA SHALL BE IMPLEMENTED BY THE DAIRY FARM AND ENFORCED BY THE DEPARTMENT AND TO PROVIDE THAT THE DEPARTMENT'S REVIEW AND APPROVAL OF PLANS SHALL SUPERSEDE OTHER SPECIFIED ACTION; AMENDING SECTION 37-606, IDAHO CODE, TO REVISE PROVISIONS REGARDING DAIRY NUTRIENT MANAGEMENT PLANS; AMENDING CHAPTER 6, TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 37-606A, IDAHO CODE, TO PROVIDE FOR DAIRY ENVIRONMENTAL MANAGEMENT PLANS; AMENDING SECTION 37-607, IDAHO CODE, TO REVISE INSPECTION PROVISIONS AND TO MAKE A TECHNICAL CORRECTION; REPEALING SECTION 37-608, IDAHO CODE, RELATING TO UNAUTHORIZED DISCHARGES; AMENDING CHAPTER 6, TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 37-608, IDAHO CODE, TO PROVIDE FOR UNAUTHORIZED DISCHARGES AND UNAUTHORIZED RELEASES; REPEALING SECTION 37-609, IDAHO CODE, RELATING TO SAFE HARBOR; AND AMENDING CHAPTER 6, TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 37-609, IDAHO CODE, TO PROVIDE THAT CERTAIN DAIRY FARMS SHALL NOT BE SUBJECT TO ENFORCEMENT, TO CLARIFY THE RESPECTIVE AUTHORITIES OF THE DEPARTMENT OF AGRICULTURE AND THE DEPARTMENT OF ENVIRONMENTAL QUALITY, TO PROVIDE THE MANNER IN

WHICH THE DEPARTMENT OF AGRICULTURE SHALL ADDRESS NONCOMPLIANCE, TO PROVIDE FOR CIVIL PENALTIES, TO PROVIDE CONDITIONS UNDER WHICH CERTAIN PENDING ADMINISTRATIVE OR CIVIL ENFORCEMENT ACTIONS SHALL BE DEEMED VOID AND TO PROVIDE THAT CERTAIN ORDERS SHALL REMAIN IN FULL FORCE AND EFFECT.

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

SECTION 1. That Section 22-4902, Idaho Code, be, and the same is hereby amended to read as follows:

22-4902. DECLARATION OF POLICY AND STATEMENT OF LEGISLATIVE INTENT. (1) The legislature recognizes the importance of protecting state natural resources including, surface water and ground water. It is the intent of the legislature to protect the quality of these natural resources while maintaining an ecologically sound, economically viable, and socially responsible beef cattle industry in the state. The beef cattle industry produces manure and process wastewater which, when properly used, supplies valuable nutrients and organic matter to soils and is protective of the environment, but may, when improperly stored and managed, create adverse impacts on natural resources, including waters of the state. This chapter is intended to ensure that manure and process wastewater associated with beef cattle operations are handled in a manner which protects the natural resources of the state.

(2) Further, the legislature recognizes that the beef cattle industry is potentially subject to various state and federal laws designed to protect state natural resources and that the Idaho department of agriculture is in the best position to administer and implement these various laws. It is therefore the intent of the legislature that the administration of this law by the department of agriculture fully meets the goals and requirements of the federal clean water act and state laws designed to further protect state waters and that administration of this chapter by the department of agriculture shall not be more stringent than or broader in scope than the requirements of the clean water act and applicable state and federal laws. The department 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 carrying out this chapter the department shall prioritize its resources on operations which have the greatest potential to significantly impact the environment and ensure that any requirements imposed under this chapter upon operators of beef cattle animal feeding operations are cost-effective and economically, environmentally and technologically feasible.

(3) Successful implementation of this chapter is dependent upon the department receiving adequate funding from the legislature and is dependent upon the department executing a memorandum of agreement with the United States environmental protection agency, the department of environmental quality and the Idaho cattle association which sets forth a working arrangement between the agencies to ensure compliance with this chapter and applicable state and federal laws, including the federal clean water act. Moreover, the legislature recognizes that it is important for the state to obtain a delegated national pollutant discharge elimination system (NPDES) permit program from the EPA United States environmental protection agency under the clean water act. The department's authority to enforce this chapter should be consistent and coordinated with the department of environmental quality's authorities pursuant to title 39, Idaho Code, to protect state ground and surface waters, and to obtain approval from the United States environmental protection agency to implement and administer an Idaho NPDES program governing the discharge of pollutants to the waters of the United States as defined in the federal clean water act.

SECTION 2. That Section 22-4903, Idaho Code, be, and the same is hereby amended to read as follows:

22-4903. AUTHORITY AND DUTIES OF DIRECTOR CONCERNING BEEF CATTLE ANIMAL FEEDING OPERATIONS. (1) The director of the department of agriculture through the division of animal industries is authorized to regulate beef cattle animal feeding operations to protect state natural resources, including surface water and ground water. The department is authorized to adopt rules to implement the provisions of this chapter.

~~(2) In order to carry out its duties under this chapter, the department shall be the responsible state department to prevent any ground water contamination from beef cattle animal feeding operations as provided under section 39-120, Idaho Code~~ Nothing in this chapter shall affect the authority of the department of environmental quality to administer and enforce an Idaho NPDES program for beef cattle feeding operations, including without limitation, the authority to issue permits, access records, conduct inspections and take enforcement action, as set forth in chapter 1, title 39, Idaho Code, and the rules adopted pursuant thereto. The provisions of this chapter do not alter the requirements, liabilities and authorities with respect to or established by an Idaho NPDES program.

~~(3) The director shall have the authority to exercise any other authorities delegated by the director of the department of environmental quality regarding the protection of ground water, surface water and other natural resources associated with confined animal~~ The director of the department of environmental quality and the director of the department of agriculture shall, as appropriate, establish an agreement relating to the administration of an Idaho NPDES program that recognizes the expertise of the department of agriculture. The director shall have the authority to exercise any other authorities delegated by the director of the department of environmental quality regarding the protection of ground water, surface water and other natural resources associated with beef cattle feeding operations, and this shall be the authority for the director of the department of environmental quality to so delegate.

(4) The director of the department of environmental quality shall consult with the director of the department of agriculture before certifying discharges from beef cattle animal feeding operations as provided under 33 U.S.C. section 1341.

SECTION 3. That Section 22-4904, Idaho Code, be, and the same is hereby amended to read as follows:

22-4904. DEFINITIONS. When used in this chapter:

(1) "Administrator" means the administrator, or his designee, for the animal industries division of the Idaho department of agriculture.

(2) "Beef cattle" means slaughter and feeder cattle or dairy heifers that are kept on or contiguous to the animal feeding operation and are owned or controlled by the animal feeding operation.

(3) "Beef cattle animal feeding operation" means an animal feeding operation which confines the number of slaughter and feeder cattle or dairy heifers as defined set forth in 40 CFR 122.23(b) (1), (b) (2), (b) (4), (b) (6) or (b) (9).

(4) "Best management practices" means practices, techniques or measures which are determined to be reasonable precautions, are a cost-effective and practicable means of preventing or reducing pollutants from point sources or nonpoint sources to a level compatible with environmental goals, including water quality goals and standards for waters of the state. Best management practices for water quality shall be adopted pursuant to the state water quality management plan, the Idaho ground water quality plan or this chapter.

- (5) "Department" means the Idaho department of agriculture.
- (6) "Director" means the director of the Idaho department of agriculture or his designee.
- (7) "Manure" means animal excrement that may also contain bedding, spilled feed, water or soil.
- (8) "Modification" or "modified" means structural changes and alterations to the wastewater storage containment facility which would require increased storage or containment capacity or such changes which would alter the function of the wastewater storage containment facility.
- (9) "Noncompliance" means a practice or condition that causes an unauthorized discharge, or a practice or condition, that if left uncorrected, will cause an unauthorized discharge.
- (10) "National pollutant discharge elimination system (NPDES)" means the point source permitting program established pursuant to section 402 of the federal clean water act.
- (11) "Nutrient management plan" means a plan prepared in conformance with the nutrient management standard, provisions required by 40 CFR 122.42(e) (1), or other equally protective standard for managing the amount, placement, form and timing of the land application of nutrients and soil amendments.
- (12) "Nutrient management standard" means the 1999 publication by the United States department of agriculture, natural resources conservation service, conservation practice standard, nutrient management code 590 or other equally protective standard approved by the director.
- (13) "Person" means any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state or federal governmental department, agency or instrumentality, or any legal entity, which is recognized by law as the subject of rights and duties.
- (14) "Process wastewater" means liquid containing beef cattle manure, process-generated wastewater and any precipitation which comes into direct contact with livestock manure and facility products or byproducts.
- (15) "Unauthorized discharge" means a discharge of process wastewater or livestock manure to state surface waters that ~~is not authorized by an NPDES permit or the release of process wastewater or livestock manure to waters of the state that~~ does not meet the requirements of this chapter or water quality standards.
- (16) "Wastewater storage and containment facilities" means the portion of an animal feeding operation where manure or process wastewater is stored or collected. This may include corrals, feeding areas, waste collection systems, waste conveyance systems, waste storage ponds, waste treatment lagoons and evaporative ponds.
- (17) "Waters of the state" means all accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon the state.

SECTION 4. That Section 22-4907, Idaho Code, be, and the same is hereby amended to read as follows:

22-4907. INSPECTIONS. (1) The director or his designee in the division of animal industries is authorized to enter and inspect any beef cattle animal feeding operation and have access to or copy any facility records deemed necessary to ensure compliance with this chapter ~~and the federal clean water act~~. The director shall comply with the biosecurity protocol of the operation so long as the protocol does not inhibit reasonable access to:

- (a) Enter and inspect at reasonable times the premises or land application site(s) of a beef cattle animal feeding operation;

(b) Review and/or copy, at reasonable times, any records that must be kept under conditions of this chapter;

(c) Sample or monitor, at reasonable times, substances or parameters directly related to compliance with an NPDES permit or this chapter.

(2) All inspections and investigations conducted under the authority of this chapter shall be performed in conformity with section 17, article I, of the constitution of the state of Idaho. The state shall not, under the authority granted by this chapter, conduct warrantless searches of private property in the absence of either consent from the property owner or other authorized person.

SECTION 5. 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 confidential and shall be exempt from disclosure pursuant to section 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 6. That Section 37-602, Idaho Code, be, and the same is hereby repealed.

SECTION 7. That Chapter 6, Title 37, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 37-602, Idaho Code, and to read as follows:

37-602. LEGISLATIVE FINDINGS AND PURPOSE. (1) The legislature finds that:

(a) The water resources of the state are among the state's most valuable natural resources;

(b) Maintaining an ecologically sound and economically viable dairy industry in this state is vital to the Idaho economy;

(c) Dairy environmental management systems that are constructed, operated and maintained in accordance with plans that are approved by the department of agriculture are an effective means of protecting the state's water resources and providing valuable resources for crop production and other uses;

(d) The department's authority to review, approve and enforce dairy environmental management plans should be consistent and coordinated with the department of environmental quality's authorities pursuant to title 39, Idaho Code, to protect state ground and surface waters and to obtain approval from the United States environmental protection agency to implement and administer an Idaho NPDES program governing the discharge of pollutants to the waters of the United States as defined in the federal clean water act;

(e) The state should encourage and promote performance and innovation in the design, construction, operation and maintenance of dairy environmental management systems; and

(f) Adequate funding from the legislature for the department of agriculture is necessary to meet the requirements and accomplish the purposes of this chapter.

(2) Therefore, the purpose of this chapter is to authorize the department of agriculture to review, approve and enforce dairy environmental management plans to ensure that dairy environmental management systems are constructed, operated and maintained in a manner that protects the natural resources of the state.

SECTION 8. That Section 37-603, Idaho Code, be, and the same is hereby amended to read as follows:

37-603. AUTHORITY AND DUTIES OF DIRECTOR AND AGENCY COORDINATION. (1) ~~Notwithstanding the provisions of chapters 1 and 36, title 39, Idaho Code, the director of the department of agriculture shall be solely responsible for protecting ground water within the boundaries of dairy farms regulated under this chapter and solely responsible for protecting surface water within the boundaries of dairy farms regulated under this chapter that are not under, or required to be under, an NPDES permit issued by the federal EPA or the department of environmental quality approving and enforcing dairy environmental management plans.~~ The department is authorized to adopt rules to implement the provisions in this chapter.

(2) The department shall implement programs to recognize, support and promote performance and innovation in the design, construction, operation and maintenance of dairy environmental management systems. The department shall consult and coordinate with the Idaho dairymen's association in the implementation of such programs.

(3) ~~Except as provided in section 37-609, Idaho Code, nothing in this chapter shall affect the authority of the department of environmental quality regarding surface or ground water quality or violation of surface or ground water quality standards beyond the boundaries of dairy farms regulated under this chapter. In addition, nothing in this chapter shall affect the authority of the department of environmental quality to implement an NPDES permit program for dairy farms to administer and enforce an Idaho NPDES program for dairy farms that discharge pollutants to waters of the United States, including without limitation, the authority to issue permits, access records, conduct inspections and take enforcement action, as set forth in chapter 1, title 39, Idaho Code, and the rules adopted pursuant thereto. The provisions of this chapter do not alter the requirements, liabilities and authorities with respect to or established by an Idaho NPDES program.~~

(34) The director of the department of environmental quality and the director of the department of agriculture shall, as appropriate, establish an agreement relating to the administration of an Idaho NPDES program that recognizes the expertise of the department of agriculture. The director shall have the authority to exercise any other authorities delegated by the director of the department of environmental quality regarding the protection of ground water, surface water and other natural resources associated with dairy farms, and this shall be the authority for the director of the department of environmental quality to so delegate.

(45) The director of the department of environmental quality shall consult with the director of the department of agriculture before certifying discharges from dairy farms as provided under 33 U.S.C. section 1341.

SECTION 9. That Section 37-604, Idaho Code, be, and the same is hereby amended to read as follows:

37-604. DEFINITIONS. When used in this chapter:

(1) "Agricultural stormwater discharge" means a precipitation-related discharge of dairy byproducts from land areas under the control of a dairy farm where the dairy byproducts have been land applied in accordance with an approved nutrient management plan.

(2) "Best management practice" means a practice, technique or measure that is determined to be a reasonable precaution, a cost-effective and practicable means of preventing or reducing the discharge of pollutants from a point source or a nonpoint source to a level compatible with environmental goals, including water quality goals and standards.

(3) "Certified planner" means a person who has completed nutrient management certification in accordance with the nutrient management standard and is approved by the department.

(4) "Dairy byproduct" means solids and liquids associated with dairy animal rearing and milk production including, but not limited to: manure, manure compost, process water, bedding, spilled feed and feed leachate, and livestock carcasses or parts thereof.

(25) ~~"Dairy farm" means land owned or operated by a dairy farm and is a place or premises department-permitted grade A or manufacture grade facility where one (1) or more milking cows, sheep or goats are kept, and from which all or a portion of the milk produced thereon is delivered, sold or offered for sale for human consumption.~~

~~(3) "Dairy waste" means manure and process wastewater that may also contain bedding, spilled feed, compost, water or soil. It also includes wastes not particularly associated with manure, such as milking center or washing wastes, milk, feed leachate, or livestock carcasses or parts thereof.~~

~~(4) "Dairy waste system" or "waste system" means the portion of a dairy farm where dairy waste is stored, collected or treated. This may include corrals, feeding areas, waste collection systems, waste conveyance systems, waste storage ponds, waste treatment lagoons and evaporative ponds~~

(6) "Dairy environmental management plan" means a plan for managing a dairy environmental management system. The dairy environmental management plan shall consist of dairy storage and containment facilities criteria and a dairy nutrient management plan that are approved by the director.

(7) "Dairy environmental management system" means the areas and structures within a dairy farm where dairy byproducts are collected, stored, treated or applied to land. These areas and structures may include corrals, feeding areas, collection systems, conveyance systems, storage ponds, treatment lagoons, evaporative ponds and land application areas.

(8) "Dairy nutrient management plan" means a plan prepared in conformance with the nutrient management standard for managing the land application of dairy byproducts that is prepared by a certified planner and approved by the department.

(9) "Dairy storage and containment facilities" means the areas and structures within a dairy farm where dairy byproducts are collected, stored or treated in conformance with engineering standards and specifications published by the United States department of agriculture natural resources conservation service or by the American society of agricultural and biological engineers (ASABE), or other equally protective criteria approved by the director. These areas may include corrals, feeding areas, collection systems, conveyance systems, storage ponds, treatment lagoons, evaporative ponds and compost areas.

(510) "Department" means the Idaho department of agriculture.

(611) "Director" means the director of the Idaho department of agriculture or his designee.

(12) "Export" means the delivery of dairy byproducts from a dairy farm to a third party for the third party's use.

(13) "Land application" means spreading on, or incorporating into the soil mantle, dairy byproducts as a soil amendment for agricultural use of nutrients and for other beneficial purposes.

~~(714) "Modification" or "modified" means structural changes and alterations to the a dairy waste system storage and containment facility that would require increased storage or containment capacity or such changes that would alter the function of the waste system.~~

(15) "National pollutant discharge elimination system" (NPDES) means the point source permitting program established pursuant to section 402 of the federal clean water act.

~~(816) "Noncompliance" means a practice or condition that:—causes an unauthorized discharge; or, if left uncorrected, will cause an unauthorized discharge, or does not meet nutrient management standards and comply with a nutrient management plan the requirements of a dairy environmental management plan. Noncompliance does not include an upset condition.~~

~~(9) "National pollutant discharge elimination system" (NPDES) means the point source permitting program established pursuant to section 402 of the federal clean water act.~~

~~(10) "Nutrient management plan" means a plan prepared in conformance with the nutrient management standard or other equally protective standard for managing the amount, placement, form and timing of the land application of nutrients and soil amendments.~~

(17) "Nutrient management standard" means criteria for managing the land application of nutrients and soil amendments published in the United States department of agriculture, natural resources conservation service, conservation practice standard, nutrient management code 590, or other equally protective criteria approved by the director.

(118) "Person" means any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state or federal governmental department, agency or instrumentality, or any legal entity that is recognized by law as the subject of rights and duties.

(19) "Process water" means water directly or indirectly used or produced in dairy animal rearing, milk production and environmental management processes including, but not limited to: excess milk; spillage or overflow from watering, washing, spraying or cooling dairy animals; water containing dairy manure; water used in washing, cleaning, or flushing barns, manure pits and other areas involved in the milk production and environmental management processes; water used for dust control; and water that comes into contact with any raw materials, products, or byproducts of the dairy production and environmental management processes.

~~(12) "Process wastewater" means liquid containing dairy manure.~~

(1320) "Unauthorized discharge" means a discharge of dairy waste to state surface waters or ground waters, or beyond a dairy farm's property boundaries that does not meet the requirements of this chapter or ground water or surface water quality standards pollutants from a dairy farm to waters of the United States as defined in the federal clean water act that is required to be but is not authorized by an NPDES permit. For purposes of the department's authorities under this chapter, unauthorized discharge shall not include an upset condition or agricultural stormwater discharge.

(21) "Unauthorized release" means a release of dairy byproducts to ground water or surface waters of the state that are not waters of the United States or beyond land owned or operated by the dairy farm that results from a dairy farm's failure to comply with its environmental management plan. Unauthorized release shall not include an upset condition, an agricultural stormwater discharge or infiltration from storage and containment facilities that is within engineering standards and specifications published by the United States department of agriculture natural resources conservation

service or by the ASABE, or other equally protective criteria approved by the director.

(22) "Upset condition" means precipitation, earthquake, vandalism or other occurrence beyond the control of the dairy farm owner or operator that exceeds criteria for storage and containment facilities and nutrient management in an approved environmental management plan.

SECTION 10. That Section 37-605, Idaho Code, be, and the same is hereby repealed.

SECTION 11. That Chapter 6, Title 37, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 37-605, Idaho Code, and to read as follows:

37-605. DAIRY STORAGE AND CONTAINMENT FACILITY DESIGN AND CONSTRUCTION. (1) All dairy storage and containment facilities shall be designed and constructed in accordance with engineering standards and specifications published by the United States department of agriculture natural resources conservation service or by the American society of agricultural and biological engineers, or other equally protective criteria approved by the director. Design, construction, operation and maintenance of storage and containment facilities in accordance with such criteria shall be considered a best management practice that is intended to prevent unauthorized discharges, unauthorized releases, violations of state water quality standards, contamination of ground water and surface water and endangerment to human health and the environment.

(2) Each dairy farm shall have storage and containment facilities criteria that are approved by the department and included in the dairy's environmental management plan. Dairy storage and containment facilities criteria shall be implemented by the dairy farm and enforced by the department to ensure that there is no unauthorized discharge or unauthorized release from the dairy farm. The department's review and approval of plans under this section shall supersede the department of environmental quality's implementation of plan and specification review and approval pursuant to section 39-118, Idaho Code.

SECTION 12. That Section 37-606, Idaho Code, be, and the same is hereby amended to read as follows:

37-606. DAIRY NUTRIENT MANAGEMENT PLAN. (1) ~~All~~ Each dairy farms shall have a dairy nutrient management plan that is approved by the department and included in the dairy farm's environmental management plan. The dairy nutrient management plan shall be implemented by the dairy farm and enforced by the department to prevent unauthorized discharges, unauthorized releases, violations of state water quality standards, contamination of ground water and surface water and endangerment to human health and the environment.

(2) The nutrient management plan shall cover the dairy farm site and other land owned and operated by the dairy farm owner or operator to which dairy byproducts may be applied. 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,~~ identify each recipient to whom dairy byproducts are exported, the amount exported to each recipient and the number of acres to which the livestock waste is applied and the amount of such livestock waste received they are applied by each recipient. The information provided ~~in pursuant to 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 manure 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 74-107, Idaho Code.~~

SECTION 13. That Chapter 6, Title 37, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 37-606A, Idaho Code, and to read as follows:

37-606A. DAIRY ENVIRONMENTAL MANAGEMENT PLAN. (1) Each dairy farm shall comply with the dairy environmental management plan that is approved and on file with the department to prevent unauthorized discharges, unauthorized releases, violations of state water quality standards, contamination of ground water and surface water and endangerment to human health and the environment.

(2) The environmental 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 74-107, Idaho Code, unless such plan is a required component of an NPDES permit.

SECTION 14. That Section 37-607, Idaho Code, be, and the same is hereby amended to read as follows:

37-607. INSPECTIONS. (1) The director or his designee is authorized to enter and inspect any dairy farm to determine ~~that dairy waste has been managed to prevent an unauthorized discharge or contamination of surface and ground water, and to determine~~ compliance with a nutrient the dairy farm's environmental management plan. The director shall have access to or copy any facility records deemed necessary pertaining to the dairy environmental management system to ensure compliance with this chapter and the federal clean water act the dairy environmental management plan.

(2) The director shall comply with the biosecurity protocol of the operation so long as the protocol does not inhibit reasonable access to:

(a) Enter and inspect at reasonable times the premises or land application site or sites of a dairy farm;

(b) Review, copy, or review and copy at reasonable times any records that must be kept under conditions of this chapter;

(c) Sample or monitor at reasonable times substances or parameters directly related to compliance with an NPDES permit ~~or this chapter~~.

(23) All inspections and investigations conducted under the authority of this chapter shall be performed in conformity with section 17, article I, of the constitution of the state of Idaho. The state shall not, under the authority granted by this chapter, conduct warrantless searches of private property in the absence of either consent from the property owner or other authorized person.

SECTION 15. That Section 37-608, Idaho Code, be, and the same is hereby repealed.

SECTION 16. That Chapter 6, Title 37, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 37-608, Idaho Code, and to read as follows:

37-608. UNAUTHORIZED DISCHARGES AND UNAUTHORIZED RELEASES. (1) No dairy farm shall cause an unauthorized discharge or an unauthorized release.

(2) The department of environmental quality shall be solely responsible and authorized to determine whether the discharge of pollutants from a dairy farm to waters of the United States is required to be authorized by an NPDES permit under chapter 1, title 39, Idaho Code. The provisions of this chapter do not define when a dairy farm is required to obtain an NPDES permit for a discharge, do not exempt a dairy farm from NPDES permitting requirements for such discharges or alter the authority of the department of environmental quality with respect to such discharges. The department shall consult with the department of environmental quality regarding its discovery of unauthorized discharges and any compliance, corrective or other enforcement actions the department has undertaken pursuant to the provisions of this chapter to enable the department of environmental quality to determine whether additional action by the department of environmental quality is warranted.

(3) The department shall determine the appropriate corrective, compliance or other enforcement action to be taken with respect to unauthorized releases.

SECTION 17. That Section 37-609, Idaho Code, be, and the same is hereby repealed.

SECTION 18. That Chapter 6, Title 37, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 37-609, Idaho Code, and to read as follows:

37-609. NONCOMPLIANCE -- ENFORCEMENT -- PENALTIES. (1) A dairy farm operating in compliance with its environmental management plan shall not be subject to enforcement action pursuant to this chapter.

(2) The department shall address noncompliance with an environmental management plan through corrective actions, compliance schedules or other actions authorized by rules adopted pursuant to this chapter. Dairy farms shall not be subject to fines, corrective actions or compliance schedules under this chapter for upset conditions or agricultural stormwater discharges. The department's authority to address noncompliance with environmental management plans does not alter the authority of the department of environmental quality with respect to the discharge of pollutants to waters of the United States.

(3) For noncompliance conditions or unauthorized releases, the director or his designee shall have the authority to assess a fine of up to ten thousand dollars (\$10,000) per occurrence. Civil penalties collected under this subsection shall be remitted to the county where the violation occurred for deposit in the county current expense fund.

(4) In any case in which the United States environmental protection agency initiates an enforcement action regarding an alleged violation of the clean water act related to a discharge of pollutants from a dairy farm to waters of the United States, any pending administrative or civil enforcement action initiated by the director relating to the same discharge 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.

Approved March 22, 2016

CHAPTER 130
(S.B. No. 1269)

AN ACT

RELATING TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY; AMENDING SECTION 39-107C, IDAHO CODE, TO PROVIDE THAT CERTAIN MONEYS SHALL BE HELD IN THE ENVIRONMENTAL PROTECTION TRUST, TO PROVIDE FOR THE PAYMENT OF COSTS AND EXPENSES, TO REVISE PROVISIONS RELATING TO THE INVESTMENT OF SURPLUS MONEYS AND TO REVISE PROVISIONS RELATING TO THE PAYMENT OF INTEREST RECEIVED.

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

SECTION 1. That Section 39-107C, Idaho Code, be, and the same is hereby amended to read as follows:

39-107C. ENVIRONMENTAL PROTECTION TRUST FUND ESTABLISHED. The director of the department of environmental quality may receive on behalf of the department any moneys or real or personal property donated, bequeathed, devised or conditionally granted to the department. Moneys received directly or derived from the sale of such property shall be deposited by the state treasurer held in a special fund to be trust known as the environmental protection trust, fund which is hereby established, reserved, set aside, appropriated and made available until expended and used and administered to carry out the terms and conditions of such donation, bequest, devise or grant and to pay the costs and expenses arising from investment of the trust. There is hereby created in the state treasury a fund to be known as the "environmental protection trust fund," which shall consist of moneys held in the environmental protection trust. Pending such expenditure or use, surplus moneys in the environmental protection trust fund shall either be invested by the state treasurer in the manner provided for idle state moneys in the state treasury by section 67-1210, Idaho Code, or, in the alternative and with the concurrence of the director of the department, the state treasurer, and the endowment fund investment board, be invested with the endowment fund investment board pursuant to chapter 7, title 57, Idaho Code. Interest received on all such investments shall be paid into the environmental protection trust fund.

Approved March 22, 2016

CHAPTER 131
(S.B. No. 1318)

AN ACT

RELATING TO THE IDAHO APPRAISAL MANAGEMENT COMPANY REGISTRATION AND REGULATION ACT; AMENDING CHAPTER 41, TITLE 54, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 54-4120 THROUGH 54-4134, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE SCOPE, TO DEFINE TERMS, TO PROVIDE FOR AN APPRAISAL PANEL AND ANNUAL SIZE CALCULATION; TO PROVIDE THAT APPRAISAL MANAGEMENT COMPANIES SHALL REGISTER WITH THE REAL ESTATE APPRAISER BOARD AND TO PROVIDE REQUIREMENTS FOR REGISTRATION, TO PROVIDE FOR EXEMPTIONS, TO PROVIDE REQUIREMENTS FOR OWNERSHIP AND FOR CONTROLLING PERSONS, TO PROVIDE FOR LIMITATIONS ON AGREEMENTS, TO PROVIDE FOR APPRAISER

ENGAGEMENT, TO PROVIDE FOR APPRAISAL REVIEW, TO PROVIDE FOR APPRAISER COMPENSATION, TO PROVIDE FOR APPRAISER INDEPENDENCE, TO PROVIDE FOR ADDITIONAL POWERS OF THE BOARD, TO PROVIDE FOR ENFORCEMENT BY THE BOARD AND TO PROVIDE FEDERAL REGISTRY REQUIREMENTS.

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

SECTION 1. That Chapter 41, 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 54-4120 through 54-4134, Idaho Code, and to read as follows:

54-4120. SHORT TITLE. Sections 54-4120 through 54-4134, Idaho Code, shall be known and may be cited as the "Idaho Appraisal Management Company Registration and Regulation Act."

54-4121. SCOPE. This act shall apply to appraisal management companies providing appraisal management services in connection with consumer credit transactions secured by a consumer's principal dwelling or securitizations of those transactions.

54-4122. DEFINITIONS. As used in this act:

(1) "Affiliate" means any company that controls, is controlled by or is under common control with another company.

(2) "AMC national registry" means the registry of state registered appraisal management companies and federally regulated appraisal management companies maintained by the appraisal subcommittee.

(3) (a) "Appraisal management company" or "AMC" means a person that:

(i) Provides appraisal management services to creditors or to secondary mortgage market participants, including affiliates;

(ii) Provides such services in connection with valuing a consumer's principal dwelling as security for a consumer credit transaction or incorporating such transactions into securitizations; and

(iii) Within a given calendar year, oversees an appraiser panel of more than fifteen (15) state certified or state licensed appraisers in this state or twenty-five (25) or more state certified or state licensed appraisers in two (2) or more states.

(b) The term "appraisal management company" or "AMC" does not include a department or division of an entity that provides appraisal management services only to that entity.

(4) "Appraisal management services" means one (1) or more of the following:

(a) Recruiting, selecting and retaining appraisers;

(b) Contracting with state certified or state licensed appraisers to perform appraisal assignments;

(c) Managing the process of having an appraisal performed, including providing administrative services such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and secondary market participants, collecting fees from creditors and secondary market participants for services provided, and paying appraisers for services performed; and

(d) Reviewing and verifying the work of appraisers.

(5) "Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal or appraisal review assignment. The term does not include:

(a) A general examination of an appraisal for grammatical, typographical, mathematical or other similar administrative errors; and

(b) A general examination for completeness, including regulatory or client requirements as specified in the agreement process that do not involve the appraiser's professional judgment, including compliance with the elements of the client's statement of work.

(6) "Appraiser panel" means a network, list or roster of licensed or certified appraisers approved by an AMC to perform appraisals as independent contractors for the AMC. Appraisers on an AMC's appraiser panel under this act include both appraisers accepted by the AMC for consideration for future appraisal assignments in covered transactions, or for secondary mortgage market participants in connection with covered transactions, and appraisers engaged by the AMC to perform one (1) or more appraisals in covered transactions, or for secondary mortgage market participants in connection with covered transactions. An appraiser is an independent contractor for the purposes of this act if the appraiser is treated as an independent contractor by the AMC for purposes of federal income taxation.

(7) "Board" means the real estate appraiser board created in section 54-4106, Idaho Code.

(8) "Bureau" means the bureau of occupational licenses created in section 67-2601, Idaho Code.

(9) "Consumer credit" means credit offered or extended to a consumer primarily for personal, family or household purposes.

(10) "Controlling person" means:

(a) An owner, officer or director of, or a natural person who holds greater than ten percent (10%) ownership interest in, a corporation, partnership or other business entity seeking to offer appraisal management services in Idaho; or

(b) An individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.

(11) "Covered transaction" means any consumer credit transaction secured by the consumer's principal dwelling.

(12) "Creditor" means:

(a) A person who regularly extends consumer credit that is subject to a finance charge or is payable by written agreement in more than four (4) installments, not including a down payment, and to whom the obligation is initially payable, either on the face of the note or contract or by agreement when there is no note or contract; or

(b) A person who regularly extends consumer credit if the person extended credit, other than credit subject to the requirements of 12 CFR 1026.32, more than five (5) times for transactions secured by a dwelling in the preceding calendar year. If a person did not meet these numerical standards in the preceding calendar year, the numerical standards shall be applied to the current calendar year. A person regularly extends consumer credit if, in any twelve (12) month period, the person originates more than one (1) credit extension that is subject to the requirements of 12 CFR 1026.32, or one (1) or more such credit extensions through a mortgage broker.

(13) "Dwelling" means a residential structure that contains one (1) to four (4) units, whether or not that structure is attached to real property. The term includes an individual condominium unit, cooperative unit, mobile home and trailer, if it is used as a residence. A consumer can have only one (1) principal dwelling at a time. A vacation or other second home is not a principal dwelling. However, if a consumer buys or builds a new dwelling that will become the consumer's principal dwelling within one (1) year or upon the completion of construction, the new dwelling is considered the principal dwelling for purposes of this section.

(14) "Federally regulated AMC" means an AMC that is owned and controlled by an insured depository institution as defined in 12 U.S.C. 1813, and regulated by the office of the comptroller of the currency, the board of gover-

nors of the federal reserve system or the federal deposit insurance corporation.

(15) "Person" means a natural person or an organization, including a corporation, partnership, proprietorship, association, cooperative, estate, trust or government unit.

(16) "Secondary mortgage market participant" means a guarantor or insurer of mortgage-backed securities or an underwriter or issuer of mortgage-backed securities. Secondary mortgage market participant only includes an individual investor in a mortgage-backed security if that investor also serves in the capacity of a guarantor, insurer, underwriter or issuer for the mortgage-backed security.

(17) "Uniform standards of professional appraisal practice" or "USPAP" means the appraisal standards promulgated by the appraisal standards board of the appraisal foundation.

54-4123. APPRAISAL PANEL -- ANNUAL SIZE CALCULATION. For purposes of determining whether, within a calendar year, an AMC oversees an appraisal panel of more than fifteen (15) state certified or state licensed appraisers in one (1) state or twenty-five (25) or more state certified or state licensed appraisers in two (2) or more states:

(1) An appraiser is deemed part of the AMC's appraiser panel as of the earliest date on which the AMC:

(a) Accepts the appraiser for the AMC's consideration for future appraisal assignments in covered transactions or for secondary mortgage market participants in connection with covered transactions; or

(b) Engages the appraiser to perform one (1) or more appraisals on behalf of a creditor for a covered transaction or secondary mortgage market participation in connection with covered transactions.

(2) An appraiser who is deemed part of the AMC's appraiser panel pursuant to subsection (1) of this section is deemed to remain on the panel until the date on which the AMC:

(a) Sends written notice to the appraiser removing the appraiser from the appraiser panel with an explanation of its action; or

(b) Receives written notice from the appraiser asking to be removed from the appraiser panel or notice of the death or incapacity of the appraiser.

(3) If an appraiser is removed from an AMC's appraiser panel pursuant to subsection (2) of this section, but the AMC subsequently accepts the appraiser for consideration for future assignments or engages the appraiser at any time during the twelve (12) months after the appraiser is removed, the removal will be deemed not to have occurred, and the appraiser will be deemed to have been part of the AMC's appraiser panel without interruption.

(4) The period for purposes of counting appraisers on an AMC's appraiser panel is the calendar year.

54-4124. REGISTRATION REQUIRED. (1) Effective July 1, 2017, it is a violation of this act for a person to directly or indirectly engage or attempt to engage in business as an appraisal management company, to directly or indirectly engage or attempt to perform appraisal management services, or to advertise or hold itself out as engaging in or conducting business as an appraisal management company without first registering with the board under the provisions of this chapter.

(2) The registration required under subsection (1) of this section shall be filed in the form required by the board by rule, shall be renewed annually and shall, at a minimum, include the following information:

(a) Name of the person seeking registration;

(b) Business address of the person seeking registration;

(c) Phone contact information of the person seeking registration;

(d) If the person is not an entity that is domiciled in this state, an executed appointment of an agent for service of process in this state in the form required by the board;

(e) The name, address and contact information for all controlling persons; and

(f) Any other information required by the board by rule that is reasonably necessary to implement the provisions of this act.

(3) A registration granted by the board pursuant to this act shall be renewed and reinstated as provided in section 67-2614, Idaho Code. The board shall establish by rule the fee to be paid by each appraisal management company seeking registration under this act, such that the sum of the fees paid by all appraisal management companies seeking registration under this act shall be sufficient for the administration of this act, but in no case shall the fee be more than one thousand five hundred dollars (\$1,500) per calendar year.

(4) (a) An applicant for issuance or renewal of an appraisal management company registration is required to file with the board a surety bond with one (1) or more corporate sureties authorized to do business in this state or an irrevocable letter of credit issued by an insured depository institution as defined in 12 U.S.C. section 1813, in the amount of twenty-five thousand dollars (\$25,000).

(b) The surety bond or letter of credit required under paragraph (a) of this subsection must be available for all amounts adjudged by a court of competent jurisdiction to be owing to persons that have been injured by the appraisal management company's failure to comply with this act. The name of the corporate surety and the policy number or the name of the insured depository institution, as applicable, shall be made available only to persons or their insurers who provide written evidence to the board that they possess an adjudicated and unsatisfied judgment against the appraisal management company.

(c) The board may require an appraisal management company to provide proof of a current surety bond or letter of credit upon written notice.

(d) A person or the board having a claim against an appraisal management company, if it has a claim, may bring suit against the surety bond or letter of credit required by paragraph (a) of this subsection. An action against the bond or letter of credit must be commenced within one hundred twenty (120) days after the appraisal management company allegedly failed to comply with this act.

(5) The board shall issue a unique registration number to each appraisal management company that is registered in this state and maintain an online list of the appraisal management companies that have registered with the board pursuant to this act. An appraisal management company registered in this state shall disclose the registration number provided to it by the board on the engagement documents presented to an appraiser.

(6) Each appraisal management company seeking to be registered or to renew an existing registration in this state shall certify to the board in a form prescribed by the board upon registration and renewal that it has a system in place to periodically review the work of appraisers who have performed appraisals for the appraisal management company to verify that the appraisals are being conducted in accordance with uniform standards of professional appraisal practice.

(7) Each appraisal management company seeking to be registered in this state shall certify to the board upon registration and renewal that it has retained all records required to be maintained under this act including the documentation for board registration and registration renewals for the period specified for retention of an appraiser's work file in the uniform standards of professional appraisal practice.

(8) Each appraisal management company seeking to be registered or to renew an existing registration in this state shall certify that the company

will require appraisals to be conducted independently as required by the appraisal independence standards under section 15 U.S.C. 1639e, including the requirements of payment of a customary and reasonable fee to independent appraisers when the appraisal management company is providing services for a consumer credit transaction secured by the principal dwelling of a consumer.

(9) (a) Each appraisal management company seeking to be registered or to renew a registration in this state shall certify to the board in a form required by the board that the company maintains a detailed record of each service request that the company receives for appraisals of property located in this state.

(b) All records required to be maintained by the registered appraisal management company shall be made available for inspection by the board upon reasonable notice to the appraisal management company.

54-4125. EXEMPTIONS. The provisions of this act shall not apply to:

(1) A person that exclusively employs appraisers on an employer and employee basis for the performance of appraisals in this state;

(2) A federally regulated AMC;

(3) A department or unit within a financial institution that is subject to direct regulation by an agency of the United States government that is a member of the federal financial institutions examination council or its successor, or to regulation by an agency of this state, that receives a request for the performance of an appraisal from one (1) employee of the financial institution, and another employee of the same financial institution assigns the request for the appraisal to an appraiser that is an independent contractor to the institution, except that an AMC that is a wholly owned subsidiary of a financial institution shall not be considered a department or unit within a financial institution to which the provisions of this act do not apply; and

(4) An appraiser who enters into an agreement with another appraiser for the performance of an appraisal that upon completion results in a report signed by both the appraiser who completed the appraisal and the appraiser who requested the completion of the appraisal.

54-4126. OWNERSHIP REQUIREMENTS -- CONTROLLING PERSONS. (1) No AMC shall be registered in this state if the AMC is owned in whole or in part, directly or indirectly, by any person who has had an appraiser license or certificate refused, denied, canceled, surrendered in lieu of revocation, or revoked in any state for substantive cause, as determined by the appropriate state appraiser certifying and licensing agency. An AMC is not barred from registration in this state if the license or certificate of the appraiser with an ownership interest was not revoked for a substantive cause and has been reinstated by the state or states in which the appraiser was licensed or certified.

(2) No AMC shall be registered in this state if any natural person that owns more than ten percent (10%) of the appraisal management company:

(a) Is determined by the board not to have good moral character; or

(b) Fails to submit to a background investigation, including a fingerprint-based criminal history check, carried out by the board.

(3) Each appraisal management company applying to the board for a registration in this state shall designate one (1) controlling person that will be the main contact for all communication between the board and the appraisal management company, and notify the board of any change in the appraisal management company's controlling person. The controlling person designated pursuant to this subsection shall:

(a) Have never had a license or certificate to act as an appraiser refused, denied, canceled, revoked or surrendered in lieu of revocation for a substantive reason in any state, unless the person has subse-

quently had the license or certificate to act as an appraiser granted or reinstated;

(b) Be of good moral character, as determined by the board; and

(c) Submit to a background investigation, including a fingerprint-based criminal history check, carried out by the board.

54-4127. LIMITATIONS ON AGREEMENTS. (1) An appraisal management company applying to the board for a registration in this state shall not knowingly or through lack of diligence for the purpose of performing appraisals or appraisal management services:

(a) Employ any person who has had a license or certificate to act as an appraiser in this state or in any other state refused, denied, canceled, revoked or surrendered in lieu of revocation, unless the person has subsequently had the license or certificate to act as an appraiser granted or reinstated;

(b) Enter into any independent contractor arrangements, whether in verbal, written or other form, with any person who has had a license or certificate to act as an appraiser in this state refused, denied, canceled, revoked or surrendered in lieu of a revocation, unless the person has subsequently had the license or certificate to act as an appraiser granted or reinstated; and

(c) Enter into any contract, agreement or other business relationship relating to the appraisal of real property, whether in verbal, written or any other form, with any entity that employs, has entered into an independent contract arrangement, or has entered into any contract, agreement or other business relationship, whether in verbal, written or any other form, with any person who has ever had a license or certificate to act as an appraiser in this state or in any other state refused, denied, canceled, revoked or surrendered in lieu of revocation, unless the person has subsequently had the license or certificate to act as an appraiser granted or reinstated.

(2) Each appraisal management company seeking to be registered in this state shall certify to the board upon registration and renewal that it has a system in place to train those who select individual appraisers for real estate appraisal services in the state to ensure that the selectors have appropriate training in placing appraisal assignments. The board cannot require that any person under this subsection meet education requirements required of persons seeking or maintaining a license as an appraiser.

(3) An appraisal management company registered in this state shall not prohibit an independent appraiser that is part of an appraisal panel from recording the fee that the appraiser was paid by the AMC for the performance of the appraisal within the communication of the appraisal.

54-4128. APPRAISER ENGAGEMENT. (1) Before or at the time of placing an assignment with an appraiser on the appraiser panel of an appraisal management company, the appraisal management company shall verify that the appraiser receiving the assignment meets the competency rule of the uniform standards of professional appraisal practice. An attestation provided by an appraiser that such appraiser is geographically competent within the appraiser's scope of practice will satisfy an appraisal management company's responsibility under this subsection.

(2) Except as otherwise provided in this act, an appraisal management company registered in this state pursuant to this act may not enter into any contracts or agreements with an appraiser for the performance of the appraisal in this state unless it verifies that the individual is licensed or certified to perform the appraisal pursuant to the state of Idaho real estate appraiser act. The appraisal management company may verify the status of the appraiser by contacting the board or utilizing the national registry of the appraisal subcommittee.

(3) Each appraisal management company seeking to be registered in this state shall certify to the board upon registration and renewal on a form prescribed by the board that the appraisal management company has a system and process in place to verify that an individual being added to the appraiser panel of the appraisal management company to perform appraisal services in this state holds a current license pursuant to the Idaho real estate appraiser act. The appraisal management company may verify the status of the appraiser by contacting the board or utilizing the national registry of the appraisal subcommittee.

(4) An appraisal management company shall engage only Idaho state certified or Idaho state licensed appraisers for appraisal services for federally related transactions in conformity with any federally related transaction regulations.

(5) Every AMC that engages an appraiser to perform one (1) or more appraisals in covered transactions or for secondary mortgage market participants in connection with covered transactions shall direct appraisers to perform the assignment in accordance with the uniform standards of professional appraisal practice.

54-4129. APPRAISAL REVIEW. Any employee of, or independent contractor to, the appraisal management company that performs an appraisal review shall be licensed or certified in this state or another state; provided that if a value opinion is provided, the person must be licensed in this state. A person performing a review that does not fall under the definition of an appraisal review is not required to be certified or licensed in any state.

54-4130. APPRAISER COMPENSATION. Except in cases of breach of contract or substandard performance of services, an appraisal management company shall pay an appraiser for the completion of an appraisal or valuation assignment not later than forty-five (45) days after the date the appraiser provides the completed appraisal or valuation assignment to the company or its assignee unless otherwise agreed to by the parties. An appraiser with an adjudicated claim for fees unpaid for more than forty-five (45) days may assert a claim against the bond or letter of credit required in section 54-4124, Idaho Code.

54-4131. APPRAISER INDEPENDENCE. (1) It shall be a violation of this act for any employee, director, officer or agent of an appraisal management company registered in this state to engage in any act or practice that violates appraisal independence as described in or pursuant to the provisions of this act.

(2) For purposes of subsection (1) of this section, acts or practices that violate appraisal independence shall include:

(a) Any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes or intimidates a person, appraisal management company, firm or other entity conducting or involved in an appraisal, or attempts to compensate, coerce, extort, collude, instruct, induce, bribe, or intimidate such a person, for the purpose of causing the appraisal value assigned, under the appraisal, to the property to be based on any factor other than the independent judgment of the appraiser;

(b) Mischaracterizing, or suborning any mischaracterization of, the appraised value of the property securing the extension of credit;

(c) Seeking to influence an appraiser or otherwise to encourage a targeted value in order to facilitate the making or pricing of the transaction; and

(d) Withholding or threatening to withhold timely payment for an appraisal report or for appraisal services rendered when the appraisal report or services are provided for in accordance with the contract between the parties.

(3) The requirements of subsections (1) and (2) of this section shall not be construed as prohibiting an appraisal management company, employee of an appraisal management company, consumer or any other person with an interest in a real estate transaction from asking an appraiser to undertake one (1) or more of the following:

(a) Consider additional appropriate property information, including the consideration of additional comparable properties to make or support an appraisal;

(b) Provide further detail, substantiation or explanation for the appraiser's consideration in the value conclusion; or

(c) Correct objective errors in the appraisal report.

(4) Any appraisal management company, employee of an appraisal management company or any other person involved in a real estate transaction involving an appraisal in connection with a consumer credit transaction who has a reasonable basis to believe an appraiser is failing to comply with the uniform standards of professional appraisal practice, is violating applicable laws, or is otherwise engaging in unethical or unprofessional conduct, shall refer the matter to the board.

(5) Every AMC shall establish and comply with processes and controls reasonably designed to ensure that the AMC, in engaging an appraiser, selects an appraiser who is independent of the transaction and who has the requisite education, expertise and experience necessary to competently complete the appraisal assignment for the particular market and property type. Every AMC shall establish and comply with processes and controls reasonably designed to ensure that the AMC conducts its appraisal management services in accordance with the requirements of 15 U.S.C. 1639e (a) through (i), and regulations thereunder.

54-4132. ADDITIONAL POWERS OF THE BOARD. In addition to the powers conferred elsewhere in this chapter, the board shall have the power under this act, in relation to appraisal management companies, to:

(1) Authorize by written agreement the bureau of occupational licenses to act 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 act;

(2) Adopt, pursuant to the administrative procedure act, rules that are consistent with the provisions of this act and are not in conflict with state or federal law that may be reasonably necessary to implement, administer and enforce the provisions of this act;

(3) Conduct investigations into violations of this act;

(4) Receive applications for and approve registration of appraisal management companies pursuant to the provisions of this act;

(5) Hold meetings and hearings at such times as it may designate;

(6) Collect, deposit and disburse application and other fees and income;

(7) Collect the actual costs and fees, including attorney's fees, incurred by the board in the investigation and prosecution of an AMC upon the finding of a violation of this act or a rule adopted or an order issued by the board under this act;

(8) Take such action as may be necessary to enforce the provisions of this act and to regulate appraisal management companies;

(9) Report an AMC's violation of applicable appraisal-related laws, regulations or orders, as well as disciplinary and enforcement actions or other relevant information about an AMC's operations to state and federal agencies; and

(10) Require new applicants, owners or designated controlling persons for each new applicant to submit to a satisfactory fingerprint-based criminal history check of the Idaho central criminal database and the federal bureau of investigation criminal history database and to collect fees from applicants for the cost of such background checks.

54-4133. ENFORCEMENT. In addition to the powers conferred in section 54-4107(2), Idaho Code, the board may conduct investigations of AMCs and may, after notice and hearing, censure an appraisal management company, conditionally or unconditionally suspend, revoke or deny the issuance or renewal of any registration or any license issued under this act for violations of this act, appraisal-related laws or rules or orders of the board. The board may, in a final order, levy fines or impose civil penalties not to exceed two thousand five hundred dollars (\$2,500) for each violation if the board finds an appraisal management company is attempting to perform, has performed or has attempted to perform any of the following acts:

- (1) Any act in violation of this act;
- (2) A material violation of any rule or order adopted by the board; or
- (3) Procuring a registration or the renewal of a registration for itself or any other person by making a false statement, submitting false information or refusing to provide complete information in response to a question in an application.

54-4134. FEDERAL REGISTRY REQUIREMENTS. (1) The board shall collect from each AMC registered or seeking to be registered in this state the information that the appraisal subcommittee requires to be submitted to it by the state pursuant to regulations or guidance promulgated by the appraisal subcommittee.

(2) A federally regulated AMC operating in this state shall report to the board the information required to be submitted by the state to the appraisal subcommittee, pursuant to the appraisal subcommittee's policies regarding the determination of the AMC national registry fee. These reports shall include:

- (a) A report to the board in a form prescribed by the board of the intent of the federally regulated AMC to operate in this state;
- (b) Information related to whether the AMC is owned in whole or in part, directly or indirectly, by any person who has had an appraiser license or certificate refused, denied, canceled, surrendered in lieu of revocation, or revoked in any state for a substantive cause, as determined by the appraisal subcommittee; and
- (c) If such person has had such action taken on his appraisal license, the board shall collect information related to whether the license was revoked for a substantive cause and if it has been reinstated by the state or states in which the appraiser was licensed.

Approved March 22, 2016

CHAPTER 132
(S.B. No. 1240)

AN ACT

RELATING TO IRRIGATION; AMENDING SECTION 42-2201, IDAHO CODE, TO INCREASE THE MAXIMUM AMOUNT OF CERTAIN ADMINISTRATIVE CHARGES THAT MAY BE LEVIED.

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

SECTION 1. That Section 42-2201, Idaho Code, be, and the same is hereby amended to read as follows:

42-2201. MAINTENANCE CHARGES -- RIGHT TO COLLECT -- BASIS OF ASSESSMENT -- LIEN. Any corporation heretofore organized or any corporation that shall hereafter be organized for the operation, control or management of an irrigation project or canal system, or for the purpose of furnishing water to its shareholders, and not for profit or hire, the control of which is actually vested in those entitled to the use of the water from such irrigation works for the irrigation of the lands to which the water from such irrigation works is appurtenant, shall have the right to levy and collect from the holders or owners of all land to which the water and water rights belonging to or diverted by said irrigation works are dedicated or appurtenant regardless of whether water is used by such owner or holder, or on or for his land; and also from the holders or owners of all other land who have contracted with such company, corporation or association of persons to furnish water on such lands, regardless of whether such water is used or not from said irrigation works, reasonable administrative charges, tolls, assessments and charges for the purpose of maintaining and operating such irrigation works and conducting the business of such company, corporation or association and meeting the obligations thereof, which tolls, assessments and charges shall, after projecting the revenue to be derived from an administrative charge of not to exceed ~~ten~~ fifty dollars (\$150.00) to be levied against each holder of a stock certificate of the company:

(1) Be equally and ratably levied and may be based upon the number of shares or water rights held or owned by the owner of such land as appurtenant thereto; or

(2) May be based upon the amount of water used or said tolls, assessments and charges may be based on:

(a) A combination of a charge of a fixed amount per share for annual operation and maintenance and a charge for a fixed minimum amount of water per share, whether used or not, plus an additional charge based on the estimated amount of water to be delivered over the minimum, as requested by the farmer, including the energy costs of said excess delivery; or

(b) A combination of a charge for energy costs, based on the amount of water delivered, and a separate charge for all other operation and maintenance costs, based on the number of shares or water rights; or

(3) May be based upon any other method of assessment fairly allocating the costs of operating and maintaining the irrigation works which has been approved by the affirmative vote of at least two-thirds (2/3) of the shares entitled to vote at any annual, regular or special meeting of the shareholders at which the question of approving the method of assessment is brought properly before the meeting.

Such company, corporation or association of persons shall have a first and prior lien, except as to the lien of taxes, upon the land to which such water and water rights are appurtenant, or upon which it is used, said lien to be perfected, maintained and foreclosed in the manner set forth in this chapter: provided, that any right to levy and collect tolls, administrative

charges, assessments and charges by any person, company of persons, association or corporation, or the right to a lien for the same, which does or may hereafter otherwise exist, is not impaired by this chapter.

Approved March 23, 2016

CHAPTER 133
(S.B. No. 1241)

AN ACT

RELATING TO IRRIGATION; AMENDING SECTION 43-707, IDAHO CODE, TO REVISE PROVISIONS REGARDING DELINQUENCY OF ASSESSMENTS.

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

SECTION 1. That Section 43-707, Idaho Code, be, and the same is hereby amended to read as follows:

43-707. PAYMENT OF ASSESSMENTS -- WHEN DELINQUENT. Except in districts which have prior to such assessment entered into contracts with the United States requiring payments to the United States on or before December first of that year, on or before the first day of November the secretary must deliver the assessment book to the treasurer of the district, who shall within ten (10) days publish a notice in a newspaper published in each county in which any portion of the district may lie, that said assessments are due and payable and will become delinquent at if not postmarked by or received by five o'clock p.m. on the twentieth day of December next thereafter, and also the times and places at which the payment of the assessments may be made, which notice shall be published for the period of two (2) weeks. If the twentieth day of December falls on a Saturday or Sunday, the assessment postmark or receipt deadline shall be the following Monday. The treasurer must attend at the times and places specified in the notice to receive assessments, which must be paid in lawful money of the United States: provided, that maintenance warrants of the district may be accepted as cash in the hands of the original owner for the payment of the maintenance assessments; and that matured bonds of the district and the accrued interest coupons detached from any of the bonds of the district, when presented by landowners within the irrigation district, may be accepted as cash in payment of assessments levied for bond interest and principal, and in the event that the said bonds so used are of a greater denomination than the said assessments the treasurer shall indorse upon said bond or bonds the amount necessary to pay said assessment or assessments and the date of said payment, and take a receipt from such bond holder for the amount so credited, and either such receipt describing the bond so indorsed or such indorsement shall be prima facie evidence that the said sum so indorsed has been paid on said bond or bonds. He must mark the date of payment of any assessment in the assessment book opposite the name of the person paying and give a receipt to such person, specifying the amount of the assessment and the amount paid with a description of the property assessed. On the twentieth day of December, at five o'clock p.m. of each year, all unpaid assessments for the current year are delinquent if not postmarked by or received by five o'clock p.m. on the twentieth day of December or the following Monday should the twentieth day of December fall on a Saturday or Sunday; provided, that if any person shall pay one-half (1/2) of his assessment before they it becomes delinquent as aforesaid, the remaining one-half (1/2) shall not become delinquent until the twentieth day of June at five o'clock p.m. of each year if not received or postmarked by the same, or the following Monday should the twentieth day of June fall on a Saturday or Sunday.

Where subdivided parcels have been combined for assessment purposes as permitted by section 43-701, Idaho Code, payment of any assessment against the parcels in the combined area shall be made by the designated person or by someone acting under his authority, by a single remittance or, if payment is made in two (2) installments, then by two (2) remittances. It shall be the responsibility of the owners of the parcels within the combined area to determine their respective shares of the assessment and to provide funds to the designated person for payment of their respective shares thereof.

The treasurer of the district shall not be required to accept partial payments of any installment of an assessment.

Approved March 23, 2016

CHAPTER 134
(S.B. No. 1242)

AN ACT

RELATING TO IRRIGATION; AMENDING SECTION 43-715, IDAHO CODE, TO CLARIFY WHEN PERSONS SHALL BE ENTITLED TO BECOME PURCHASERS OF THE RIGHTS OF THE DISTRICT IN UNREDEEMED DELINQUENCY ENTRIES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 43-715, Idaho Code, be, and the same is hereby amended to read as follows:

43-715. DELINQUENT ASSESSMENTS -- SALE OF RIGHTS TO TAX DEED -- PURCHASER'S RIGHTS AFTER REDEMPTION PERIOD. (1) After the delinquency list has been filed with the county recorder and prior to the expiration of the period of redemption, the board may by written assignment convey its right to tax deed on any delinquency entry to any person paying to the treasurer the amount of such delinquency entry, together with the penalty and interest to the date of assignment as required in case of redemption. Whereupon, the treasurer shall note such assignment opposite the entry on his list of delinquency entries and in case of subsequent redemption thereof, he shall pay the amount so received in redemption to the assignee upon surrender of the tax certificate reassigned to the district; provided, however, that no assignment shall be made unless all prior assessments against the lands covered by such delinquency entry be first fully paid.

(2) ~~During such time~~ When the board exercises its discretionary assignment rights under subsection (1) of this section, any person shall be entitled to become a purchaser of the rights of the district in any unredeemed delinquency entry and the board shall make to the purchaser a proper tax certificate therefor upon receipt of said sums in cash.

(3) After the expiration of the period of redemption, the owner of any tax certificate shall be entitled to tax deed thereon upon delivering to the treasurer his tax certificate from the district, with proper assignments from any previous owner; or, in case of the loss of the tax certificate, of satisfactory proof that he is the owner of the tax certificate; provided, that notice of the pending issuance of tax deed has been served as required by section 43-717, Idaho Code, and that, after compliance with section 43-719(1) or (2), Idaho Code, the board has directed the treasurer to issue the tax deed. Any tax certificate upon which tax deed has not been claimed by the owner of the tax certificate within two (2) years from the expiration of the period of redemption shall become null and void.

Approved March 23, 2016

CHAPTER 135
(S.B. No. 1255)

AN ACT

RELATING TO THE ATTORNEY GENERAL; AMENDING SECTION 31-2002, IDAHO CODE, TO REVISE THE DUTIES OF THE ATTORNEY GENERAL REGARDING INVESTIGATIONS AND ACTIONS AGAINST COUNTY ELECTED OFFICERS IN CERTAIN CRIMINAL LAW MATTERS AND TO PROVIDE A CORRECT CODE REFERENCE.

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

SECTION 1. That Section 31-2002, Idaho Code, be, and the same is hereby amended to read as follows:

31-2002. PRELIMINARY INVESTIGATIONS AND ACTIONS AGAINST COUNTY ELECTED OFFICERS -- DUTIES OF ATTORNEY GENERAL. (1) Notwithstanding any provision of law to the contrary, the attorney general shall ~~may~~ conduct an preliminary investigation of any allegation of a violation of state criminal law, ~~civil or criminal~~, against a county officer occupying an elective office for violation of state criminal law in his official capacity.

(2) Upon completion of the ~~preliminary~~ investigation, the attorney general ~~may~~ shall:

(a) Issue a finding of no further action necessary;

(b) ~~Prescribe~~ Suggest training or other nonjudicial remedies; or

(c) ~~Issue a finding that further investigation or prosecution is warranted, provided that the attorney general shall refer a recommendation for further investigation or prosecution to the county prosecutor who shall seek appointment of a special prosecutor. If the attorney general issues a finding that further investigation or prosecution is warranted against a county prosecutor, the attorney general shall retain the matter and act as special prosecutor.~~ Determine that further investigation or prosecution is warranted and retain the matter and act as special prosecutor.

(3) In furtherance of the duty to conduct investigations set forth in the provisions of this section, the attorney general shall have the authority to issue subpoenas for the production of documents or tangible things that may be relevant to such investigations.

(4) The provisions of this section shall not apply to any alleged violations of the open meetings law as codified in chapter 23, title ~~67~~ 74, Idaho Code.

(5) For purposes of this section, a county officer occupying an elective office shall be deemed to have performed an act in his "official capacity" when such act takes place while the officer is working or claims to be working on behalf of his employer at his workplace or elsewhere, while the officer is at his workplace whether or not he is working at the time, involves the use of public property or equipment of any kind or involves the expenditure of public funds.

Approved March 23, 2016

CHAPTER 136
(S.B. No. 1272)

AN ACT

RELATING TO THE SCHOOL DISTRICT BOND CREDIT ENHANCEMENT PROGRAM; AMENDING SECTION 57-728, IDAHO CODE, TO RAISE THE AGGREGATE GUARANTEE LIMIT OF THE CREDIT ENHANCEMENT PROGRAM FOR SCHOOL DISTRICT BONDS, TO RAISE THE PER DISTRICT GUARANTEE LIMIT UNDER THE CREDIT ENHANCEMENT PROGRAM FOR SCHOOL DISTRICT BONDS, TO PROVIDE APPLICATION AND TO PROVIDE CORRECT TERMINOLOGY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 57-728, Idaho Code, be, and the same is hereby amended to read as follows:

57-728. CREDIT ENHANCEMENT PROGRAM FOR SCHOOL DISTRICT BONDS. (1) The endowment fund investment board shall administer a school district bond credit enhancement program in accordance with this section and in conjunction with chapter 53, title 33, Idaho Code. This program applies to voter approved bonds issued by school districts. The program is intended to benefit school districts by authorizing the board to purchase notes issued by the state of Idaho for the purpose of making debt service payments under the Idaho school bond guaranty program established in chapter 53, title 33, Idaho Code.

(2) The board shall promulgate rules to implement the program. Rules may include the imposition of guaranty and administrative fees upon school districts participating in the program. Rules shall include:

(a) The application materials school districts must provide to the board; and

(b) The application procedures, submission deadlines, and the time periods for review and approval or denial of an application.

(3) A school district that seeks credit enhancement under this program shall first apply to the state treasurer to participate in the Idaho school bond guaranty program established in chapter 53, title 33, Idaho Code. If approved to participate in the Idaho school bond guaranty program, a school district may apply for credit enhancement, as provided in section 33-5310, Idaho Code. The board shall approve or deny applications as set forth in rule but not longer than twenty (20) days following the submission of a complete application to the board. Nothing contained herein shall prohibit a school district from reapplying following a rejected application.

(4) Upon approval of a school district's application to participate in the credit enhancement program, the following shall be in effect in the event moneys from the sales tax account or from the provisions of section 33-5309, Idaho Code, are insufficient to pay a debt service payment under the Idaho school bond guaranty program:

(a) The board may purchase on behalf of the public school endowment fund, or from other funds administered by the board, notes from the state issued by the state treasurer, in accordance with section 33-5308, Idaho Code, under such terms as are negotiated between the board and the state treasurer; or

(b) Upon the request of the state treasurer pursuant to section 33-5308, Idaho Code, the board shall purchase on behalf of the public school endowment fund notes issued by the state treasurer, the proceeds of which shall be sufficient to pay the debt service payments as they become due.

(5) Notes purchased by the board pursuant to subsection (4) (b) of this section shall be subject to the following terms and conditions:

(a) The notes shall bear interest at a rate equal to the annual rate of one (1) year treasury bills, as published by the federal reserve board as of the date of the request of the state treasurer, plus four hundred (400) basis points, plus, for the first six (6) months of the term of the note, an amount, as determined by the board, up to a maximum of fifty (50) basis points, to cover all additional administrative and transaction costs related to the purchase of the notes;

(b) The notes will have a maximum term of one (1) year, and may be renewed at the request of the state treasurer;

(c) The notes, including principal and interest, shall be repaid from the school district's next payments pursuant to section 33-5307, Idaho Code, as collected by the state treasurer;

(d) The state may make additional payments on the note;

(e) The board may require the state treasurer to compel the school district to modify its fiscal practices and its general operations if the board determines that there is a substantial likelihood that the school district will not be able to make future payments required under this section.

(6) The provisions of this section shall not be deemed to interfere with the state treasurer's ability in chapter 53, title 33, Idaho Code, to obtain repayment of a delinquent obligation.

(7) For purposes of administering the provisions of this section, the board shall make available the sum of ~~two~~ three hundred million dollars (\$2300,000,000) from the public school endowment fund, for purposes of purchasing notes as authorized by this section. Nothing in this section shall require the board to hold at any time in excess of ~~two~~ three hundred million dollars (\$2300,000,000) in notes issued pursuant to the credit enhancement program. The principal amount of bonds guaranteed by the credit enhancement program shall not be greater than four (4) times the amount made available by the board from the public school ~~permanent~~ endowment fund for the purpose of purchasing notes.

(8) ~~On and after the effective date of this section, t~~The aggregate principal amount of school district bonds outstanding that may be guaranteed by the credit enhancement program shall not exceed ~~twenty~~ forty million dollars (\$240,000,000) per school district. ~~Notwithstanding this maximum limit, credit enhancement of bond guaranties for bonds issued prior to July 1, 2007, exceeding the twenty million dollar (\$20,000,000) maximum limit shall remain in effect.~~ In the event school districts consolidate, the maximum credit enhancement of the bonds of the newly consolidated school district shall be the sum of the maximum limit of each school district participating in the consolidation. The state treasurer shall monitor the principal amounts of each school district participating in the credit enhancement program and provide such information to the board.

(9) Any bond originally guaranteed under this chapter shall no longer be considered guaranteed from and after the date on which that bond no longer has the benefit of the Idaho school bond guaranty program established in chapter 53, title 33, Idaho Code.

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

Approved March 23, 2016

CHAPTER 137
(S.B. No. 1274)

AN ACT

RELATING TO ABSENTEE VOTING; AMENDING SECTION 34-1002, IDAHO CODE, TO REVISE A CERTAIN APPLICATION DEADLINE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 34-1002, Idaho Code, be, and the same is hereby amended to read as follows:

34-1002. APPLICATION FOR ABSENTEE BALLOT. (1) Any registered elector may make written application to the county clerk, or other proper officer charged by law with the duty of issuing official ballots for such election, for an official ballot or ballots of the kind or kinds to be voted at the election. The application shall contain the name of the elector, the elector's home address, county, and address to which such ballot shall be forwarded.

(2) In order to provide the appropriate primary election ballot to electors, in the event a political party elects to allow unaffiliated electors to vote in that party's primary election pursuant to section 34-904A, Idaho Code, the elector shall designate, as part of the written application for a ballot for primary elections, the elector's party affiliation or designation as "unaffiliated." The application shall contain checkoff boxes for "unaffiliated" electors by which such electors shall indicate for which party's primary ballot the "unaffiliated" elector chooses to vote. Provided however, that no political party's primary election ballot shall be provided to an "unaffiliated" elector for a political party that has not elected to allow "unaffiliated" electors to vote in that political party's primary election pursuant to section 34-904A, Idaho Code. If an "unaffiliated" elector does not indicate a choice of political party's primary election ballot, the elector shall receive a nonpartisan ballot.

(3) In order to provide the appropriate primary election ballot to electors, in the event one (1) or more political parties elect to allow electors affiliated with a different political party to vote in that party's primary election, the application shall contain checkoff boxes by which such electors may indicate the primary ballot in which the elector wishes to vote.

(4) For electors who are registered to vote as of January 1, 2012, and who remain registered electors, the elector shall designate, as part of the written application for a ballot for the 2012 primary elections, the elector's party affiliation or designation as "unaffiliated." The application shall contain checkoff boxes for "unaffiliated" electors by which such electors shall indicate for which party's primary election ballot the "unaffiliated" elector chooses to vote, pursuant to section 34-904A, Idaho Code. Provided however, that no political party's primary election ballot shall be provided to an "unaffiliated" elector for a political party that has not elected to allow "unaffiliated" electors to vote in the party's primary election pursuant to section 34-904A, Idaho Code. If an "unaffiliated" elector does not indicate a choice of political party's primary election ballot, the elector shall receive a nonpartisan ballot. After the 2012 primary election, the county clerk shall record the party affiliation or "unaffiliated" designation so selected on the application for an absentee ballot as part of such an elector's record within the voter registration system as provided for in section 34-437A, Idaho Code.

(5) After the 2012 primary election, electors who remain registered voters and who did not vote in the 2012 primary elections and who make written application for an absentee ballot shall be designated as "unaffiliated" electors as provided in section 34-404, Idaho Code, and such electors

shall be given the appropriate ballot for such "unaffiliated" designation pursuant to the provisions of this act.

(6) An elector may not change party affiliation or designation as "unaffiliated" on an application for absentee ballot. For primary elections, an elector may change party affiliation or designation as "unaffiliated" as provided for in section 34-411A, Idaho Code.

(7) The application for an absent elector's ballot shall be signed personally by the applicant. The application for a mail-in absentee ballot shall be received by the county clerk not later than 5:00 p.m. on the ~~sixth~~ eleventh day before the election. An application for in-person absentee voting at the absent elector's polling place described in section 34-1006, Idaho Code, shall be received by the county clerk not later than 5:00 p.m. on the Friday before the election. Application for an absentee ballot may be made by using a facsimile machine or other electronic transmission. In the event a registered elector is unable to vote in person at the elector's designated polling place on the day of election because of an emergency situation ~~which~~ that rendered the elector physically unable, the elector may nevertheless apply for an absent elector's ballot by notifying the county clerk within ninety-six (96) hours prior to the closing of the polls. No person may, however, be entitled to vote under an emergency situation unless the situation claimed rendered the elector physically unable to vote at the elector's designated polling place within ninety-six (96) hours prior to the closing of the polls.

(8) A person may make application for an absent elector's ballot by use of a properly executed federal post card application as provided for in the laws of the United States known as uniformed and overseas citizens absentee voting act (UOCAVA, 42 U.S.C. 1973 ff, et seq., as amended). The issuing officer shall keep as a part of the records of such officer's office a list of all applications so received and of the manner and time of delivery or mailing to and receipt of returned ballot.

(9) The county clerk shall, not later than seventy-five (75) days after the date of each general election, submit a report to the secretary of state containing information concerning absentee voters as required by federal law.

Approved March 23, 2016

CHAPTER 138
(S.B. No. 1275)

AN ACT

RELATING TO ABSENTEE VOTING; AMENDING SECTION 34-1012, IDAHO CODE, TO REVISE PROVISIONS REGARDING EARLY VOTING AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 34-1012, Idaho Code, be, and the same is hereby amended to read as follows:

34-1012. ALTERNATIVE PROCEDURES FOR ABSENTEE VOTING -- EARLY VOTING. (1) Those counties that utilize absentee voting facilities that have access to the Idaho statewide voter registration system and count ballots at a central location or utilize a polling location based tabulation system may elect to conduct "early voting" according to the provisions of this section. For those counties that elect to do "early voting," early voting shall begin on or before the third Monday before the election and end at 5:00 p.m. on

the Friday before the election. Primary election ballots shall be issued pursuant to section 34-1002(2), Idaho Code.

(12) A voter who appears at an "early voting" station to vote shall state his or her name and address to the election official and present the voter's identification as required by sections 34-1113 and 34-1114, Idaho Code.

(23) The election official shall examine the records to ascertain whether or not such applicant is registered and lawfully entitled to vote as requested. The provisions of section 34-408A, Idaho Code, authorizing election day registration shall also apply in determining the applicant's qualifications to vote.

(34) Before receiving a ballot, each elector shall sign his or her name in the election register and poll book provided for early voting.

(45) The elector shall then be given the appropriate ballots ~~that have been stamped with~~ containing the official election stamp ballot identification pursuant to section 34-901, Idaho Code, and shall be given folding instructions for such ballots, if appropriate.

(56) Upon receipt of the ballots, the elector shall retire to a vacant voting booth and mark the ballots according to the instructions provided.

(67) After marking the ballot, the elector shall present himself or herself to the election official at the ballot box and state his or her name and address. The elector shall then deposit the ballot in the ballot box or hand it to the election official, who shall deposit it. The election official shall then record that the elector has voted and proclaim the same in an audible voice.

(78) Voters requiring assistance shall be provided with such assistance in accordance with section 34-1108, Idaho Code.

(89) Electioneering is prohibited at an early voting polling place as provided in section 18-2318, Idaho Code.

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

Approved March 23, 2016

CHAPTER 139
(S.B. No. 1278)

AN ACT

RELATING TO WATER; AMENDING SECTION 42-201, IDAHO CODE, TO PROVIDE THAT A PERSON OR ENTITY OPERATING A CANAL OR CONDUIT FOR IRRIGATION OR OTHER BENEFICIAL USES AUTHORIZED BY A WATER RIGHT THAT PERMITS WATER TO BE DIVERTED FROM A NATURAL WATERCOURSE FOR SUCH PURPOSES SHALL NOT BE REQUIRED TO OBTAIN AN ADDITIONAL WATER RIGHT FOR THE INCIDENTAL USE OF THAT SAME WATER WHERE THE WATER IS DIVERTED FOR IRRIGATION OR OTHER BENEFICIAL USE AND THEREAFTER USED TO GENERATE HYDROELECTRICITY IN THE CANAL OR CONDUIT, TO PROVIDE CONDITIONS, TO PROVIDE THAT THE INCIDENTAL HYDROPOWER USE SHALL BE JUNIOR TO AND FULLY SUBORDINATED TO ALL EXISTING AND FUTURE USES AND SHALL BE NONCONSUMPTIVE AND TO PROVIDE FOR CERTAIN WRITTEN NOTICE.

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

SECTION 1. That Section 42-201, Idaho Code, be, and the same is hereby amended to read as follows:

42-201. WATER RIGHTS ACQUIRED UNDER CHAPTER -- ILLEGAL DIVERSION AND APPLICATION OF WATER -- USES FOR WHICH WATER RIGHT NOT REQUIRED -- EXCLUSIVE AUTHORITY OF DEPARTMENT. (1) All rights to divert and use the waters of this state for beneficial purposes shall hereafter be acquired and confirmed under the provisions of this chapter and not otherwise. And after the passage of this title all the waters of this state shall be controlled and administered in the manner herein provided. Such appropriation shall be perfected only by means of the application, permit and license procedure as provided in this title; provided, however, that in the event an appropriation has been commenced by diversion and application to beneficial use prior to the effective date of this act it may be perfected under such method of appropriation.

(2) No person shall use the public waters of the state of Idaho except in accordance with the laws of the state of Idaho. No person shall divert any water from a natural watercourse or apply water to land without having obtained a valid water right to do so, or apply it to purposes for which no valid water right exists.

(3) Notwithstanding the provisions of subsection (2) of this section, water may be diverted from a natural watercourse and used at any time, with or without a water right:

(a) To extinguish an existing fire on private or public lands, structures, or equipment, or to prevent an existing fire from spreading to private or public lands, structures, or equipment endangered by an existing fire;

(b) For forest practices as defined in section 38-1303(1), Idaho Code, and forest dust abatement. Such forest practices and forest dust abatement use is limited to two-tenths (0.2) acre-feet per day from a single watercourse.

(4) For purposes of subsection (3) (b) of this section, no person shall divert water from a canal or other irrigation facility while the water is lawfully diverted, captured, conveyed, used or otherwise physically controlled by the appropriator.

(5) If water is to be diverted from a natural watercourse within a water district, or from a natural watercourse from which an irrigation delivery entity diverts water, a person diverting water pursuant to subsection (3) (b) of this section shall give notice to the watermaster of the intent to divert water for the purposes set forth in said subsection. In the event that the water to be diverted pursuant to subsection (3) (b) of this section is not within a water district, but an irrigation delivery entity diverts water from the same natural watercourse, the required notices shall be given to said irrigation delivery entity. For uses authorized in subsection (3) (a) of this section, notice shall not be required but may be provided when it is reasonable to do so.

(6) A water right holder, who determines that a use set forth in subsection (3) of this section is causing a water right to which the holder is entitled to be deprived of water to which it may be otherwise entitled, may petition the director of the department of water resources to order cessation of or modification of the use to prevent injury to a water right. Upon such a petition, the director shall cause an investigation to be made and may hold hearings or gather information in some other manner. In the event that the director finds that an injury is occurring to a water right, he may require the use to cease or be modified to ensure that no injury to other water rights occurs. A water right holder feeling aggrieved by a decision or action of the director shall be entitled to contest the action of the director pursuant to section 42-1701A(3), Idaho Code.

(7) This title delegates to the department of water resources exclusive authority over the appropriation of the public surface and ground waters of the state. No other agency, department, county, city, municipal corporation or other instrumentality or political subdivision of the state shall enact any rule or ordinance or take any other action to prohibit, restrict or reg-

ulate the appropriation of the public surface or ground waters of the state, and any such action shall be null and void.

(8) Notwithstanding the provisions of subsection (2) of this section, a municipality or municipal provider as defined in section 42-202B, Idaho Code, a sewer district as defined in section 42-3202, Idaho Code, or a regional public entity operating a publicly owned treatment works shall not be required to obtain a water right for the collection, treatment, storage or disposal of effluent from a publicly owned treatment works or other system for the collection of sewage or stormwater where such collection, treatment, storage or disposal, including land application, is employed in response to state or federal regulatory requirements. If land application is to take place on lands not identified as a place of use for an existing irrigation water right, the municipal provider or sewer district shall provide the department of water resources with notice describing the location of the land application, or any change therein, prior to land application taking place. The notice shall be upon forms furnished by the department of water resources and shall provide all required information.

(9) Notwithstanding the provisions of subsection (2) of this section, a person or entity operating a canal or conduit for irrigation or other beneficial uses authorized by a water right that permits water to be diverted from a natural watercourse for such purposes shall not be required to obtain an additional water right for the incidental use of that same water where the water is diverted for irrigation or other beneficial use and thereafter used to generate hydroelectricity in the canal or conduit, if (a) the use for hydroelectric purposes does not increase the rate of diversion of water from the natural watercourse, and (b) the person or entity has the right to generate electricity under a license or exemption issued under the federal power act, a lease of power privileges or other authorization, agreement or contract with reclamation or other federal, state or local governmental agency. The incidental hydropower use shall be junior to and fully subordinated to all existing and future uses and shall be nonconsumptive. To qualify for this exemption, the person or entity must give written notice to the department of water resources and the watermaster describing the hydropower use, location and capacity of the project upon completion of the project. The notice must include a copy of the order or document authorizing the project. The notice must also certify that the incidental use of water for hydropower purposes under the existing water right meets all the requirements of this subsection.

Approved March 23, 2016

CHAPTER 140
(S.B. No. 1279)

AN ACT

RELATING TO THE STEM EDUCATION FUND; AMENDING CHAPTER 8, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-824, IDAHO CODE, TO PROVIDE FOR THE STEM EDUCATION FUND AND RELATED PROVISIONS.

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

SECTION 1. That Chapter 8, 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 67-824, Idaho Code, and to read as follows:

67-824. STEM EDUCATION FUND. There is hereby created in the state treasury the STEM education fund to support the programs and priorities of the state in advancing science, technology, engineering and mathematics

education. The STEM education fund may accept private contributions, moneys from other public agencies or moneys from any other source. The moneys shall be used solely for the purposes provided in section 67-823, Idaho Code, and be expended and accounted for as provided by law. All expenditures from the STEM education fund must be approved by the Idaho STEM action center board.

Approved March 23, 2016

CHAPTER 141
(S.B. No. 1283)

AN ACT

RELATING TO MOTOR VEHICLE INSURANCE; AMENDING SECTION 49-1234, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE ONLINE INSURANCE VERIFICATION SYSTEM, TO PROVIDE THAT THE IDAHO TRANSPORTATION DEPARTMENT SHALL PROMULGATE RULES TO PROVIDE INSURERS AN ALTERNATIVE METHOD FOR VERIFYING MOTOR VEHICLE INSURANCE POLICY DATA AND TO REVISE PROVISIONS REGARDING THE METHODS OF VERIFICATION; AND AMENDING CHAPTER 13, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1338, IDAHO CODE, TO PROVIDE THAT FAILURE TO COMPLY WITH SPECIFIED LAW REGARDING UNINSURED VEHICLE TRACKING SHALL CONSTITUTE A WRONGFUL PRACTICE AND SUBJECT AN INSURER TO CERTAIN PENALTIES.

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

SECTION 1. That Section 49-1234, Idaho Code, be, and the same is hereby amended to read as follows:

49-1234. ONLINE INSURANCE VERIFICATION SYSTEM -- PEACE OFFICER DUTIES -- RULEMAKING. (1) The department shall establish and maintain an online insurance verification system for motor vehicle insurance coverage required by the provisions of this chapter, subject to the following:

(a) The department shall consult with representatives of the insurance industry to determine the objectives, details and deadlines relating to the verification system;

(b) The verification system shall be accessible through the internet, world wide web or a similar proprietary or common carrier electronic system by authorized personnel of the department, department of insurance, courts, law enforcement entities and of any other entity authorized by the department;

(c) The verification system shall provide for direct inquiry and response between the department and insurance carriers, or such other method of inquiry and response as agreed to by the department and individual insurance carriers, ~~and direct access to insurers' records by personnel authorized by the department;~~

(d) The verification system shall be capable of sending inquiries to and receiving responses from insurers for the purpose of verifying 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~~ verifying 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, national association of insurance commissioners' (NAIC) code or 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 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 2. That Chapter 13, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-1338, Idaho Code, and to read as follows:

41-1338. UNINSURED VEHICLE TRACKING -- PENALTIES. Tracking uninsured vehicles through online insurance verification is an important policy of the state of Idaho that requires the participation of all auto insurers. Failure to comply with the provisions of section 49-1234, Idaho Code, shall constitute a wrongful practice and the insurer shall be subject to penalties pursuant to section 41-327, Idaho Code.

Approved March 23, 2016

CHAPTER 142
(S.B. No. 1285, As Amended)

AN ACT

RELATING TO ENGINEERS AND SURVEYORS; AMENDING SECTION 54-1214, IDAHO CODE, TO REVISE PROVISIONS REGARDING EXAMINATIONS THAT ARE OFFERED, TO REVISE PROVISIONS REGARDING A CANDIDATE WHO FAILS AN EXAMINATION, TO PROVIDE THAT THE BOARD MAY ISSUE A RESTRICTED LICENSE TO ENGINEERING FACULTY UNDER CERTAIN CONDITIONS AND TO DEFINE A TERM.

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

SECTION 1. 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 professional 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.~~ The following examinations shall be offered:

(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 professional engineering 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 professional surveying 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 a ~~professional engineering or professional land surveying examination for the first time~~ may apply for request reexamination, 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 that may include a professional engineering or professional surveying review course, 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 that may include a second professional engineering or professional surveying review course, 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.

(5) The board may issue a restricted license to engineering faculty with an earned doctorate degree. The license shall be restricted to those licensees remaining employed by a college or university in this state and teaching upper division engineering courses. The board may waive technical examinations for such licenses in lieu of other requirements prescribed by rule. As used in this section, "restricted license" means a license to teach college or university upper division courses with an earned doctorate but without passing a technical examination.

Approved March 23, 2016

CHAPTER 143
(S.B. No. 1293, As Amended)

AN ACT

RELATING TO PARENTAL RIGHTS IN EDUCATION; AMENDING TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 56, TITLE 33, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO PARENTAL RIGHTS IN EDUCATION AND TO PROVIDE FOR AN ANNUAL NOTICE OF PARENTAL RIGHTS.

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

SECTION 1. 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 56, Title 33, Idaho Code, and to read as follows:

CHAPTER 56
PARENTAL RIGHTS IN EDUCATION

33-5601. PARENTAL RIGHTS. (1) A student's parent or guardian has the right to reasonable academic accommodation from their child's public school. "Reasonable accommodation" means the school shall make its best effort to enable a parent or guardian to exercise their rights without substantial impact to staff and resources, including employee working conditions, safety and supervision on school premises for school activities and the efficient allocation of expenditures, while balancing the parental rights of parents and guardians, the educational needs of other students, the academic and behavioral impacts to a classroom, a teacher's workload and the assurance of the safe and efficient operations of the school.

(2) School districts and the boards of directors of public charter schools, in consultation with parents, teachers and administrators, shall develop and adopt a policy to promote the involvement of parents and guardians of children enrolled in the schools within the school district or the charter school, including:

(a) A plan for parent participation in the schools that is designed to improve parent and teacher cooperation in such areas as homework, attendance and discipline;

(b) A process by which parents may learn about the course of study for their children and review learning materials, including the source of any supplemental educational materials; and

(c) A process by which parents who object to any learning material or activity on the basis that it harms the child or impairs the parents' firmly held beliefs, values or principles, may withdraw their child from the activity, class or program in which the material is used.

33-5602. ANNUAL NOTICE OF PARENTAL RIGHTS. School districts and the boards of directors of public charter schools shall annually notify a parent or guardian of a student enrolled in the school district or public charter school of the parent's or guardian's rights as specified in this chapter.

Approved March 23, 2016

CHAPTER 144
(S.B. No. 1304)

AN ACT

RELATING TO IRRIGATION DISTRICTS; AMENDING SECTION 43-314, IDAHO CODE, TO PROVIDE THAT NO ELECTION AND NO CONFIRMATION PROCEEDINGS SHALL BE REQUIRED WHEN THE CONTRACT FOR CONSTRUCTION OF A HYDROELECTRIC PLANT BY THE DISTRICT DOES NOT INVOLVE QUESTIONS OF INDEBTEDNESS INCURRED BY THE DISTRICT.

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

SECTION 1. That Section 43-314, Idaho Code, be, and the same is hereby amended to read as follows:

43-314. ELECTRICAL POWER PLANTS -- SALE OF SURPLUS POWER -- RATIFICATION OF CONTRACT. The question of the ratification of contracts for the sale of surplus power as provided in the preceding section shall be submitted in the same manner, and shall be governed by the same limitations and provisions as questions creating indebtedness: provided, that the form for the notices, and the form upon the prepared ballots, and the form for the returns, shall be so changed as to conform to the purposes of this and the preceding section. Notwithstanding any provisions of chapter 23, title 43, Idaho Code, or the provisions of this chapter, no election and no confirmation proceedings shall be required when the contract for construction of a hydroelectric plant by the district does not involve questions of indebtedness incurred by the district.

Approved March 23, 2016

CHAPTER 145
(H.B. No. 463)

AN ACT

RELATING TO MINIMUM WAGES; AMENDING SECTION 44-1502, IDAHO CODE, TO REVISE OBSOLETE LANGUAGE AND TO PROHIBIT POLITICAL SUBDIVISIONS OF THIS STATE FROM ESTABLISHING MINIMUM WAGES HIGHER THAN THE MINIMUM WAGES PROVIDED IN THIS SECTION.

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

SECTION 1. That Section 44-1502, Idaho Code, be, and the same is hereby amended to read as follows:

44-1502. MINIMUM WAGES. (1) Except as hereinafter otherwise provided, no employer shall pay to any of his employees any wages computed at a rate of less than ~~four seven~~ dollars and ~~seventy twenty-five~~ cents (~~\$4.757.25~~) commencing ~~April 1, 1997~~, and ~~five dollars and fifteen cents~~ (~~\$5.15~~) commencing ~~September 1, 1997~~, per hour for employment. The amount of the minimum wage shall conform to, and track with, the federal minimum wage.

(2) In determining the wage of a tipped employee, the amount of direct wages paid by an employer to the employee shall be deemed to be increased on account of tips actually received by the employee; provided however, the direct wages paid to the employee by the employer shall not be in an amount less than three dollars and thirty-five cents (\$3.35) an hour. If the tips actually received by the employee combined with the direct wages paid by the employer do not at least equal the minimum wage, the employer must make up the difference. In the event a dispute arises between the employee and the employer with respect to the amount of tips actually received by the employee, it shall be the employer's burden to demonstrate the amount of tips actually received by the employee. Any portion of tips paid to an employee, which is shared with other employees under a tip pooling or similar arrangement, shall not be deemed, for the purpose of this section, to be tips actually received by the employee.

(3) In lieu of the rate prescribed by subsection (1) of this section, an employer may pay an employee who has not attained twenty (20) years of age a wage which is not less than four dollars and twenty-five cents (\$4.25) an hour during the first ninety (90) consecutive calendar days after such employee is initially employed. No employer may take any action to displace employees (including partial displacements such as reduction in hours, wages or employment benefits) for purposes of hiring individuals at the wage authorized in this subsection.

(4) No political subdivision of this state, as defined by section 6-902, Idaho Code, shall establish by ordinance or other action minimum wages higher than the minimum wages provided in this section.

Law without signature.

CHAPTER 146
(S.B. No. 1238)

AN ACT

RELATING TO PUBLIC RECORDS; AMENDING SECTION 74-114, IDAHO CODE, TO AUTHORIZE INSPECTION AND COPYING OF CERTAIN RECORDS RELATING TO WATER QUALITY AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 74-114, Idaho Code, be, and the same is hereby amended to read as follows:

74-114. ACCESS TO AIR QUALITY, WATER QUALITY AND HAZARDOUS WASTE RECORDS -- PROTECTION OF TRADE SECRETS. (1) To the extent required by the federal clean air act, the federal clean water 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 Idaho pollutant discharge elimination system (IPDES) applicant or permittee;
- (d) The content of any IPDES permit;
- (e) IPDES permit applications, and information required to be submitted by IPDES application forms, whether the information is submitted on the application forms themselves or in any attachments used to supply information required by the application forms;
- (f) Effluent data or a standard or limitation, as defined in 40 CFR 2.302;
- (g) 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
- (dh) Any other record required to be provided to or obtained by the department of environmental quality pursuant to the federal clean air act, the federal clean water 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 subsections 74-103(3) and (4) of section 74-103, 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.

Law without signature.

CHAPTER 147
(S.B. No. 1327)

AN ACT

RELATING TO VULNERABLE ADULTS; AMENDING SECTION 18-1505, IDAHO CODE, TO REVISE A DEFINITION.

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

SECTION 1. That Section 18-1505, Idaho Code, be, and the same is hereby amended to read as follows:

18-1505. ABUSE, EXPLOITATION OR NEGLECT OF A VULNERABLE ADULT. (1) Any person who abuses or neglects a vulnerable adult under circumstances likely to produce great bodily harm or death is guilty of a felony punishable by imprisonment for not more than ten (10) years and not more than a twenty-five thousand dollar (\$25,000) fine.

(2) Any person who abuses or neglects a vulnerable adult under circumstances other than those likely to produce great bodily harm or death is guilty of a misdemeanor.

(3) Any person who exploits a vulnerable adult is guilty of a misdemeanor, unless the monetary damage from such exploitation exceeds one thousand dollars (\$1,000), in which case the person is guilty of a felony punishable by imprisonment for not more than ten (10) years and not more than a twenty-five thousand dollar (\$25,000) fine.

(4) As used in this section:

(a) "Abuse" means the intentional or negligent infliction of physical pain, injury or mental injury. Intentional abuse shall be punished under subsection (1) or (2) of this section depending upon the harm inflicted. Abuse by negligent infliction shall only be punished under subsection (2) of this section.

(b) "Caretaker" means any individual or institution that is responsible by relationship, contract or court order to provide food, shelter or clothing, medical or other life-sustaining necessities to a vulnerable adult.

(c) "Exploitation" or "exploit" means an action which may include, but is not limited to, the unjust or improper use of a vulnerable adult's financial power of attorney, funds, property or resources by another person for profit or advantage.

(d) "Neglect" means failure of a caretaker to provide food, clothing, shelter or medical care to a vulnerable adult, in such a manner as to jeopardize the life, health and or safety of the vulnerable adult.

(e) "Vulnerable adult" means a person eighteen (18) years of age or older who is unable to protect himself from abuse, neglect or exploitation due to physical or mental impairment which affects the person's judgment or behavior to the extent that he lacks sufficient understanding or capacity to make or communicate or implement decisions regarding his person, funds, property or resources.

(5) Nothing in this section shall be construed to mean a person is abused, neglected or exploited for the sole reason he is relying upon treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination; nor shall the provisions of this section be construed to require any medical care or treatment in contravention of the stated or implied objection of such a person.

(6) Nothing in this section shall be construed to mean that an employer or supervisor of a person who abuses, exploits or neglects a vulnerable adult may be prosecuted unless there is direct evidence of a violation of this statute by the employer or supervisor.

Approved March 23, 2016

CHAPTER 148
(S.B. No. 1352)

AN ACT

RELATING TO GUARDIANS OF MINORS; AMENDING SECTION 15-5-210, IDAHO CODE, TO PROVIDE THAT A GUARDIAN'S AUTHORITY AND RESPONSIBILITY SHALL TERMINATE UPON TERMINATION OF THE GUARDIANSHIP AND TO REVISE A PROVISION REGARDING THE RESIGNATION OF A GUARDIAN; AND AMENDING SECTION 15-5-212, IDAHO CODE, TO PROVIDE FOR PROCEEDINGS FOR THE MODIFICATION OR TERMINATION OF A GUARDIANSHIP AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 15-5-210, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-210. TERMINATION OF APPOINTMENT OF GUARDIAN -- GENERAL. A guardian's authority and responsibility terminates upon the death, resignation or removal of the guardian, termination of the guardianship or upon the minor's death, adoption, marriage or attainment of majority, but termination does not affect his liability for prior acts, nor his obligation to account for funds and assets of his ward. Resignation of a guardian without the appointment of a successor guardian does not terminate the guardianship until it has been approved by the court. A testamentary appointment under an informally probated will terminates if the will is later denied probate in a formal proceeding.

SECTION 2. That Section 15-5-212, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-212. RESIGNATION, OR REMOVAL, MODIFICATION OR TERMINATION PROCEEDINGS. (a₁) Any person interested in the welfare of a ward, or the ward, if fourteen (14) or more years of age, may petition for removal of a guardian, or for modification or termination of the guardianship, on the ground that such removal, modification or termination would be in the best interest of the ward. A guardian may petition for permission to resign. A petition for removal or for permission to resign may, but need not, include a request for appointment of a successor guardian.

(b₂) After notice and hearing on a petition for removal or for permission to resign, the court may terminate the guardianship and make any further order that may be appropriate.

(e₃) If, at any time in the proceeding, the court determines that the interests of the ward are, or may be, inadequately represented, it may appoint an attorney to represent the minor, giving consideration to the preference of the minor if the minor is fourteen (14) or more years of age.

Approved March 23, 2016

CHAPTER 149
(S.B. No. 1379)

AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF BUILDING SAFETY FOR FISCAL YEAR 2017; 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, 2016, through June 30, 2017:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
State Regulatory				
Fund	\$8,648,000	\$1,789,800	\$643,800	\$11,081,600
School Security Assessment				
Fund		300,000		300,000
Miscellaneous Revenue/ Industrial Safety				
Fund	696,300	94,500		790,800
Miscellaneous Revenue/ Logging				
Fund	375,800	71,800		447,600
Federal Grant				
Fund	41,400	46,200	0	87,600
TOTAL	\$9,761,500	\$2,302,300	\$643,800	\$12,707,600

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-six (126) full-time equivalent positions at any point during the period July 1, 2016, through June 30, 2017, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 23, 2016

CHAPTER 150
(S.B. No. 1380)

AN ACT

APPROPRIATING MONEYS TO THE INDUSTRIAL COMMISSION FOR FISCAL YEAR 2017; 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, 2016, through June 30, 2017:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. COMPENSATION:					
FROM:					
Industrial Administration					
Fund	\$3,681,200	\$1,045,300	\$99,700	\$1,185,100	\$6,011,300
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>
TOTAL	\$3,689,000	\$1,094,100	\$99,700	\$1,341,200	\$6,224,000
II. REHABILITATION:					
FROM:					
Industrial Administration					
Fund	\$3,440,900	\$607,100	\$113,000		\$4,161,000
III. CRIME VICTIMS COMPENSATION:					
FROM:					
Crime Victims Compensation					
Fund	\$842,000	\$237,100	\$6,800	\$2,000,000	\$3,085,900
Federal Grant					
Fund	<u>0</u>	<u>0</u>	<u>0</u>	<u>800,000</u>	<u>800,000</u>
TOTAL	\$842,000	\$237,100	\$6,800	\$2,800,000	\$3,885,900
IV. ADJUDICATION:					
FROM:					
Industrial Administration					
Fund	\$1,825,400	\$551,900	\$42,800		\$2,420,100
GRAND TOTAL	\$9,797,300	\$2,490,200	\$262,300	\$4,141,200	\$16,691,000

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, 2016, through June 30, 2017, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 23, 2016

CHAPTER 151
(S.B. No. 1381)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF INSURANCE FOR FISCAL YEAR 2017;
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, 2016, through June 30, 2017:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. INSURANCE REGULATION:				
FROM:				
Insurance Administrative				
Fund	\$4,686,100	\$2,821,500	\$215,400	\$7,723,000
Federal Grant				
Fund	<u>277,300</u>	<u>398,100</u>	<u>21,200</u>	<u>696,600</u>
TOTAL	\$4,963,400	\$3,219,600	\$236,600	\$8,419,600
II. STATE FIRE MARSHAL:				
FROM:				
Arson, Fire and Fraud Prevention				
Fund	\$729,800	\$336,200	\$71,300	\$1,137,300
GRAND TOTAL	\$5,693,200	\$3,555,800	\$307,900	\$9,556,900

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, 2016, through June 30, 2017, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 23, 2016

CHAPTER 152
(H.B. No. 343)

AN ACT

RELATING TO FUELS; AMENDING SECTION 63-2412, IDAHO CODE, TO CLARIFY CERTAIN REVENUE DISTRIBUTION PROVISIONS; AMENDING SECTION 63-2418, IDAHO CODE, TO PROVIDE FOR THE DISTRIBUTION OF REVENUES RECEIVED FROM TAX IMPOSED ON CERTAIN SPECIAL FUELS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-2412, Idaho Code, be, and the same is hereby amended to read as follows:

63-2412. DISTRIBUTION OF TAX REVENUES FROM TAX ON GASOLINE AND AIR-CRAFT ENGINE FUEL. (1) The revenues received from the taxes imposed by sections 63-2402 and 63-2421, Idaho Code, upon the receipt or use of gasoline, and any penalties, interest, or deficiency additions, shall be distributed periodically as follows:

(a) An amount of money equal to the actual cost of collecting, administering and enforcing the gasoline tax requirements by the commission, as determined by it shall be retained by the commission. The amount retained by the commission shall not exceed the amount authorized to be expended by appropriation by the legislature. Any unencumbered balance in excess of the actual cost of collecting, administering and enforcing the gasoline tax requirements by the commission at the end of each fiscal year shall be distributed as listed in paragraph (f) of this subsection.

(b) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized by the commission to be paid shall be paid from the state refund account and those moneys are hereby continuously appropriated for that purpose.

(c) As soon as possible after the beginning of each fiscal year, the sum of two hundred fifty thousand dollars (\$250,000) shall be distributed to the railroad grade crossing protection account in the dedicated fund, to pay the amounts from the account pursuant to the provisions of section 62-304C, Idaho Code.

(d) As soon as possible after the beginning of each fiscal year, the sum of one hundred thousand dollars (\$100,000) shall be distributed to the local bridge inspection account in the dedicated fund, to pay the amounts from the account pursuant to the provisions of section 40-703, Idaho Code.

(e) An amount of money equal to seven percent (7%) shall be distributed to the state highway account established in section 40-702, Idaho Code.

(f) From the balance remaining with the commission after distributing the amounts in paragraphs (a) through (e) of subsection (1) of this section:

1. One and twenty-eight hundredths percent (1.28%) shall be distributed as follows: sixty-six percent (66%) of the one and twenty-eight hundredths percent (1.28%) shall be distributed to the waterways improvement account, as created in chapter 15, title 57, Idaho Code. Up to twenty percent (20%) of the moneys distributed to the waterways improvement account under the provisions of this paragraph may be used by the department of parks and recreation to defray administrative costs. Any moneys unused at the end of the fiscal year by the department of parks and recreation shall be returned to the state treasurer for deposit in the waterways improvement account. Thirty-three percent (33%) of the one and twenty-eight hundredths percent (1.28%) shall be distributed into the park and recreation capital improvement account as created in section 57-1801, Idaho Code. One percent (1%) of the one and twenty-eight hundredths percent (1.28%) shall be distributed to the search and rescue fund created in section 67-2913, Idaho Code;

2. One and twenty-eight hundredths percent (1.28%) shall be distributed as follows: sixty-six percent (66%) of the one and twenty-eight hundredths percent (1.28%) shall be distributed to the off-road motor vehicle account, as created in section 57-1901,

Idaho Code. Up to twenty percent (20%) of the moneys distributed to the off-road motor vehicle account by this subparagraph may be used by the department of parks and recreation to defray administrative costs. Any moneys unused at the end of the fiscal year by the department of parks and recreation shall be returned to the state treasurer for deposit in the off-road motor vehicle account. Thirty-three percent (33%) of the one and twenty-eight hundredths percent (1.28%) shall be distributed into the park and recreation capital improvement account as created in section 57-1801, Idaho Code. One percent (1%) of the one and twenty-eight hundredths percent (1.28%) shall be distributed to the search and rescue fund created in section 67-2913, Idaho Code; and

3. Forty-four hundredths percent (.44%) shall be distributed to the park and recreation capital improvement account as created in section 57-1801, Idaho Code, to be used solely to develop, construct, maintain and repair roads, bridges and parking areas within and leading to parks and recreation areas of the state.

4. The balance remaining shall be distributed to the highway distribution account created in section 40-701, Idaho Code.

(2) Provided however, the distribution pursuant to subsection (1) of this section of revenues received from the taxes imposed pursuant to section 63-2402(2), Idaho Code, shall apply only to twenty-five cents (25¢) of every thirty-two cents (32¢) received. The remaining seven cents (7¢) of every thirty-two cents (32¢) received pursuant to the provisions of section 63-2402(2), Idaho Code, shall be distributed as follows:

(a) Sixty percent (60%) to the state highway account; and

(b) Forty percent (40%) to be distributed pursuant to the provisions of section 40-709, Idaho Code, in the same manner as distribution of moneys appropriated from the highway distribution account to local units of government.

(3) The revenues received from the taxes imposed by section 63-2408, Idaho Code, and any penalties, interest, and deficiency amounts, shall be distributed as follows:

(a) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized by the commission to be paid shall be paid from the state refund account, and those moneys are hereby continuously appropriated.

(b) The balance remaining of all the taxes collected shall be distributed to the state aeronautics account, as provided in section 21-211, Idaho Code.

SECTION 2. That Section 63-2418, Idaho Code, be, and the same is hereby amended to read as follows:

63-2418. DISTRIBUTION OF TAX REVENUES FROM TAX ON SPECIAL FUELS. Unless as otherwise provided in subsection (5) of this section, The revenues received from the tax imposed by this chapter upon the receipt of special fuel and any penalties, interest or deficiency additions, or from the fees imposed by the commission under the provisions of section 63-2424 or 63-2438, Idaho Code, shall be distributed as follows:

(1) An amount of money equal to the actual cost of collecting, administering and enforcing the special fuels tax provisions by the commission, as determined by it shall be retained by the commission. The amount retained by the commission shall not exceed the amount authorized to be expended by appropriation by the legislature. Any unencumbered balance in excess of the actual cost of collecting, administering and enforcing the special fuels tax requirements by the commission at the end of each fiscal year shall be distributed to the highway distribution account.

(2) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized by the commission to be paid under this chapter shall be paid from the state refund account, those moneys being hereby continuously appropriated.

(3) An amount of money equal to seven percent (7%) shall be distributed to the state highway account as established in section 40-702, Idaho Code.

(4) The balance remaining with the commission after distributing the amounts specified in subsections (1), (2) and (3) of this section shall be distributed to the highway distribution account established in section 40-701, Idaho Code.

(5) For those special fuels subject to tax pursuant to section 63-2402 or 63-2424, Idaho Code, twenty-five cents (25¢) of every thirty-two cents (32¢) of revenue received from such tax shall be distributed pursuant to the provisions of subsections (1), (2), (3) and (4) of this section. The remaining seven cents (7¢) of every thirty-two cents (32¢) of revenue received shall be distributed as follows:

(a) Sixty percent (60%) to the state highway account; and

(b) Forty percent (40%) to be distributed pursuant to the provisions of section 40-709, Idaho Code, in the same manner as distribution of moneys appropriated from the highway distribution account to local units of government.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to July 1, 2015.

Approved March 23, 2016

CHAPTER 153

(H.B. No. 362, As Amended in the Senate)

AN ACT

RELATING TO RETAIL SALE OF LIQUOR BY THE DRINK; AMENDING SECTION 23-902, IDAHO CODE, TO REVISE THE DEFINITION OF "PERSON" AND TO MAKE A TECHNICAL CORRECTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 23-902, Idaho Code, be, and the same is hereby amended to read as follows:

23-902. DEFINITIONS. The following words and phrases used in this chapter shall be given the following interpretation:

(1) "Club" includes any of the following organizations where the sale of spirituous liquor for consumption on the premises is made to members and to bona fide guests of members only:

(a) A post, chapter, camp or other local unit composed solely of veterans and their duly recognized auxiliary, and which is a post, chapter, camp or other local unit composed solely of veterans which has been chartered by the congress of the United States for patriotic, fraternal or benevolent purposes, and which has, as the owner, lessee or occupant, operated an establishment for that purpose in this state; or

(b) A chapter, aerie, parlor, lodge or other local unit of an American national fraternal organization, which has as the owner, lessee or occupant, operated an establishment for fraternal purposes in this state and actively operates in not less than thirty-six (36) states or has been in continuous existence for not less than twenty (20)

years; and which has not less than fifty (50) bona fide members in each unit, and which owns, maintains or operates club quarters, and is authorized and incorporated to operate as a nonprofit club under the laws of this state, and which has recognized tax exempt status under section 501(c) (8) or 501(c) (10) of the Internal Revenue Code, and has been continuously incorporated and operating for a period of not less than one (1) year. The club shall have had during that period of one (1) year, a bona fide membership with regular meetings conducted at least once each month, and the membership shall be and shall have been actively engaged in carrying out the objects of the club. The club membership shall consist of bona fide dues paying members, recorded by the secretary of the club, paying at least six dollars (\$6.00) per year in dues, payable monthly, quarterly or annually; and the members at the time of application for a club license shall be in good standing, having paid dues for at least one (1) full year.

(2) "Convention" means a formal meeting of members, representatives, or delegates, as of a political party, fraternal society, profession or industry.

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

(4) "Gaming" means any and all gambling or games of chance defined in chapters 38 and 49, title 18, Idaho Code, or any section or sections thereof, whether those games are licensed or unlicensed.

(5) "Interdicted person" means a person to whom the sale of liquor is prohibited under law.

(6) "License" means a license issued by the director to a qualified person, under which it shall be lawful for the licensee to sell and dispense liquor by the drink at retail, as provided by law.

(7) "Licensee" means the person to whom a license is issued under the provisions of law.

(8) "Liquor" means all kinds of liquor sold by and in a state liquor store of the state of Idaho.

(9) "Live performance" means a performance occurring in a theater and not otherwise in violation of any provision of Idaho law.

(10) "Municipal license" means a license issued by a municipality of the state of Idaho under the provisions of law.

(11) "Party" means a social gathering especially for pleasure or amusement and includes, but is not limited to, such social events as weddings, birthdays, and special holiday celebrations to include, but not be limited to, New Year's celebrations, Super Bowl Sunday, St. Patrick's Day, the Fourth of July and Labor Day.

(12) "Person" means every any individual, partnership, corporation, organization, or association holding a retail liquor license business corporation, nonprofit corporation, benefit corporation as defined in section 30-2002(1), Idaho Code, partnership, limited partnership, limited liability company, general cooperative association, limited cooperative association, estate, unincorporated nonprofit association, statutory trust, business trust, common-law business trust, estate trust, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality, any entity defined in section 30-21-102, Idaho Code, or any other commercial entity, whether conducting the business singularly or collectively.

(13) "Premises" means the building and contiguous property owned, or leased or used under a government permit by a licensee, as part of the business establishment in the business of sale of liquor by the drink 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 liquor by the drink at retail is authorized under the provisions of law.

(14) "Rules" means rules promulgated by the director in accordance with the provisions of law.

(15) "State liquor store" means a liquor store or distributor established under and pursuant to the laws of the state of Idaho for the package sale of liquor at retail.

(16) "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.

(17) 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. 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, 2016

CHAPTER 154
(H.B. No. 366)

AN ACT

RELATING TO THE BOARD OF ARCHITECTURAL EXAMINERS; AMENDING SECTION 54-312, IDAHO CODE, TO REVISE BOARD COMPENSATION PROVISIONS.

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

SECTION 1. That Section 54-312, Idaho Code, be, and the same is hereby amended to read as follows:

54-312. ARCHITECTS -- BOARD OF EXAMINERS -- POWERS AND DUTIES -- COMPENSATION. (1) The board of architectural examiners is hereby created in the department of self-governing agencies. The board of architectural examiners shall consist of six (6) members, to be appointed by the governor, each of whom shall be an architect, and shall have been a resident of and a lawfully practicing architect within the state of Idaho for a period of at least five (5) years next before his appointment. At all times the board shall have at least one (1) member who is engaged primarily in professional architectural education.

(2) The board shall have, in addition to the powers conferred elsewhere in this chapter, the following powers and duties:

(a) To authorize, by written agreement, the bureau of occupational licenses to act as its agent in its interest.

(b) To adopt, pursuant to the administrative procedure act, such rules as the board, in its discretion, deems necessary for the administration and enforcement of this chapter.

(c) To conduct investigations into violations of this chapter.

(d) The board, or its duly appointed hearing officer, shall have the power in any disciplinary proceeding under this chapter, to administer oaths, take depositions of witnesses within or without the state in the manner provided by law in civil cases, and may apply to any district court of this state for a subpoena to require the attendance of such witnesses and the production of such books, records, and papers as it deems necessary. The fees and mileage of the witnesses shall be the same as that allowed in the district courts in criminal cases, which fees and mileage shall be paid in the same manner as other expenses of the board are paid. In any case of disobedience to, or neglect of,

any subpoena or subpoena duces tecum served upon any person, or the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated, it shall be the duty of any district court in this state on application by the board to compel compliance with the subpoena by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or for refusal to testify therein. The licensed person accused in such proceedings shall have the same right of subpoena.

(e) To adopt rules requiring annual continuing education as a condition for the renewal of licenses issued under this chapter.

(3) Each member of the board of architectural examiners shall be compensated as provided by section 59-509 (i o), Idaho Code.

Approved March 23, 2016

CHAPTER 155
(H.B. No. 368)

AN ACT

RELATING TO REAL ESTATE APPRAISERS; AMENDING SECTION 54-4104, IDAHO CODE, TO REVISE DEFINITIONS.

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

SECTION 1. That Section 54-4104, Idaho Code, be, and the same is hereby amended to read as follows:

54-4104. DEFINITIONS. As used in this chapter:

(1) "Appraisal" or "real estate appraisal" means an analysis, opinion or conclusion relating to the ~~of~~ value, nature, quality, or utility of ~~specified interests in, or aspects of,~~ identified real estate.

(2) "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased opinion or conclusion relating to the value, nature, quality or utility of ~~specified interests in, or aspects of,~~ identified real estate.

(3) "Appraisal foundation" or "foundation" means the appraisal foundation established on November 20, 1987, as a not-for-profit corporation under the laws of Illinois.

(4) "Board" means the real estate appraiser board.

(5) "Broker's price opinion" means a written price opinion of the estimated price for identified real property that is prepared by a real estate broker or associate broker licensed under chapter 20, title 54, Idaho Code, pursuant to the requirements and content provisions for the broker's price opinions contained in this chapter.

(6) "Federally related transaction" means any real estate related financial transaction that a federally regulated institution, regulatory agency, or the resolution trust corporation engages in, funds, contracts for, or regulates.

(7) "License" or "certificate" means that document issued by the real estate appraiser board certifying that the person named thereon has satisfied the requirements for licensure or certification as a state licensed or certified real estate appraiser and bearing a license or certificate number assigned by the board.

(8) "Noncomplex appraisal" is one in which the subject property has an active market of essentially identical properties, there is adequate market data available, adjustments do not exceed the typical range found in the market for essentially identical properties, and in the instance of residen-

tial property, the contract sales price would fall within the market norm for homes or lots within the same area.

(9) "Real estate appraiser" or "appraiser" means a person who for a fee or other valuable consideration or the expectation thereof, develops and communicates real estate appraisals or otherwise gives an opinion of the value of real estate or any interest therein.

(10) "Real estate related financial transaction" means any transaction involving:

(a) The sale, lease, purchase, investment in or exchange of real property, including interest in property or the financing thereof;

(b) The financing or refinancing of real property, or any interest in real property;

(c) The use of real property or an interest in real property as security for a loan or investment, including a mortgage backed security.

(11) "Real property" or "real estate" means and includes leaseholds as well as any other interest or estate in land, whether corporeal, incorporeal, freehold or nonfreehold and whether situated in this state or elsewhere.

(12) "State certified general real estate appraiser" means a person who is certified to appraise all types of real property.

(13) "State certified residential real estate appraiser" means a person who holds a current, valid certificate as a state certified residential appraiser issued under the provisions of this chapter whose practice is limited to appraisal of residential properties of four (4) or less units without regard to transaction value or complexity.

(14) "State licensed residential real estate appraiser" means a person who is licensed to appraise residential real property consisting of one (1) to four (4) noncomplex residential units having a transaction value less than one million dollars (\$1,000,000) and complex one (1) to four (4) residential units having a transaction value less than two hundred fifty thousand dollars (\$250,000).

Approved March 23, 2016

CHAPTER 156

(H.B. No. 379, As Amended in the Senate)

AN ACT

RELATING TO COURSES OF INSTRUCTION; PROVIDING LEGISLATIVE INTENT; AND AMENDING CHAPTER 16, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1633, IDAHO CODE, TO PROVIDE THE COMPUTER SCIENCE INITIATIVE FOR PUBLIC SCHOOLS AND RELATED PROVISIONS.

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

SECTION 1. LEGISLATIVE INTENT. The Legislature recognizes that a significant increase in the number of computer science and related technology graduates from the state's higher education institutions is required over the next several years to advance the intellectual, cultural, social and economic well-being of the state and its citizens. It is essential that efforts to increase computer science instruction, kindergarten through career, be driven by the needs of industry and be developed in partnership with industry and that industry participate in the funding of the state's computer science education initiatives.

SECTION 2. 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 33-1633, Idaho Code, and to read as follows:

33-1633. COMPUTER SCIENCE INITIATIVE FOR PUBLIC SCHOOLS. (1) As used in this section:

(a) "Blended professional development" means to deliver content and training to teachers and administrators in a combination of online and face-to-face.

(b) "Computer science" means the study of principles, applications and technologies of computing and computers.

(2) The STEM action center, the state board of education and the state department of education shall collaborate to develop and implement a computer science initiative for public schools by:

(a) Adopting computer science content standards in 2016 aligned with nationally recognized computer science education standards with input from Idaho educators and industries for implementation in the 2017-2018 school year;

(b) Providing for professional development in teaching computer science by:

(i) Developing resources for teachers and administrators relating to teaching computational thinking;

(ii) Providing statewide, regional, online and blended professional development opportunities for school district staff;

(iii) Partnering with entities such as the Idaho digital learning academy, public higher education institutions and industry to develop, deliver and provide professional development in computer science for teachers; and

(iv) Distributing grants to school districts and charter schools that may be used to provide incentives for teachers to pursue training in computer science or earn a computer science endorsement;

(c) Maintaining, using and enhancing access to an online portal or repository of instructional resources that:

(i) Is available for public school districts and public charter schools to use as a resource;

(ii) Includes high-quality computer science instructional resources that are designed to teach K-12 students computational thinking skills and are in alignment with the state computer science content standards;

(iii) Leverages existing online resources and portals developed by state and governmental entities; and

(iv) Allows for collaborative contribution and sharing of resources by teachers, administrators, parents and students;

(d) Ensuring that the state department of education and the Idaho digital learning academy evaluate providers of comprehensive computer science instructional solutions and provide research, support and guidance on implementing solutions for computer science courses or programs aligned with the state computer science content standards;

(e) Creating opportunities for schools to partner with local companies to provide for student and teacher mentoring and internships in the computer science field;

(f) Communicating and supporting computer science initiatives, programs, events, training and other promotions throughout the state for the benefit of school districts, students, parents and local communities; and

(g) Creating equitable access to computer science resources and programs aligned with the state computer science content standards for teachers, administrators and students throughout the state.

(3) The STEM action center, the state board of education and the state department of education shall, when economical and beneficial, leverage existing state resources and systems to effectively and efficiently carry out the directives of this computer science initiative for public schools.

(4) The STEM action center board may select one (1) or more providers through a request for proposals process to provide a comprehensive computer science solution for public school districts and public charter schools to implement.

(5) The STEM action center, the division of career technical education and industry shall collaborate to create technical secondary and postsecondary courses of study in areas related to computer science that meet workforce needs.

(6) The STEM action center shall collaborate with the state board of education, division of career technical education, the state department of education, public higher education institutions and industry to develop a communication plan related to the computer science initiative.

(7) The STEM action center and the state board of education shall provide an annual report to the legislature on the status of this initiative.

Approved March 23, 2016

CHAPTER 157
(H.B. No. 390)

AN ACT

RELATING TO ANNUAL REPORTS OF BENEFIT CORPORATIONS; AMENDING SECTION 30-2013, IDAHO CODE, TO REMOVE THE REQUIREMENT OF FILING A BENEFIT CORPORATION'S BENEFIT REPORT WITH THE SECRETARY OF STATE.

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

SECTION 1. That Section 30-2013, Idaho Code, be, and the same is hereby amended to read as follows:

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 March 23, 2016

CHAPTER 158
(H.B. No. 397)

AN ACT

RELATING TO THE EMPLOYMENT SECURITY LAW; AMENDING SECTION 72-1349A, IDAHO CODE, TO CLARIFY THE NOTICE AND APPEAL PROVISIONS FOR COST REIMBURSEMENT DETERMINATIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 72-1350, IDAHO CODE, TO CLARIFY THE NOTICE PROVISIONS FOR TAXABLE WAGE RATE DETERMINATIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 72-1351, IDAHO CODE, TO CLARIFY THE APPEAL PROCEDURES FOR CHARGEABILITY DETERMINATIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 72-1351A, IDAHO CODE, TO CLARIFY THE NOTICE AND APPEAL PROCEDURES FOR RATE TRANSFER DETERMINATIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 72-1353, IDAHO CODE, TO CLARIFY THE NOTICE PROVISIONS FOR COVERAGE DETERMINATIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 72-1357, IDAHO CODE, TO CLARIFY THE NOTICE PROVISIONS FOR ADJUSTMENT AND REFUND DETERMINATIONS; AMENDING SECTION 72-1358, IDAHO CODE, TO CLARIFY THE NOTICE PROVISION FOR DETERMINATIONS OF AMOUNTS DUE UPON FAILURE TO REPORT; AMENDING SECTION 72-1359, IDAHO CODE, TO CLARIFY THE NOTICE PROVISIONS FOR JEOPARDY ASSESSMENT DETERMINATIONS; AMENDING SECTION 72-1361, IDAHO CODE, TO FURTHER DEFINE THE TYPES OF DETERMINATIONS THAT MAY BE APPEALED; AND AMENDING SECTION 72-1362, IDAHO CODE, TO CLARIFY THE NOTICE PROVISIONS AND APPEAL PROCEDURES FOR DETERMINATIONS OF SUCCESSOR LIABILITY.

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

SECTION 1. That Section 72-1349A, Idaho Code, be, and the same is hereby amended to read as follows:

72-1349A. FINANCING OF BENEFIT PAYMENTS BY NONPROFIT ORGANIZATIONS AND GOVERNMENTAL ENTITIES. (1) Benefits paid to employees of governmental entities and nonprofit organizations shall be financed in accordance with the provisions of this section.

A group of such organizations or entities may elect, with the approval of the director, to act as a group in fulfilling the requirements of this chapter.

(2) Liability for contributions and election of reimbursements. A nonprofit organization or governmental entity shall pay contributions under the provisions of section 72-1349, Idaho Code, unless it elects, in accordance with this section, to pay to the director an amount equal to the full amount of regular benefits paid and the amount paid for extended benefits for which the department is not reimbursed by the federal government, for any reason including, but not limited to, payments made as a result of a determination or payments erroneously paid, or paid as a result of a determination of eligibility, which is subsequently reversed if said payment or any portion thereof was made as a result of wages earned in the employ of such organization or entity. Any sums recovered by the department from a claimant as a result of said payments shall be credited to the account of the nonprofit organization or governmental entity which that reimbursed the fund for the payment of said benefits. Where such benefits are paid utilizing wages paid by two (2) or more employers, the portion of benefits to be repaid by the organization or entity shall be its proportionate share. This shall be computed on the basis of the relationship between wages utilized which that were earned for services performed for such organization or entity and the total wages utilized in paying such benefits.

(3) Any nonprofit organization or governmental entity may elect to become liable for payments in lieu of contributions, provided it files with the

director a written notice of election not later than thirty (30) days prior to the beginning of any taxable year or within thirty (30) days after the date of the final determination that such organization or entity is subject to this chapter. Such election shall be effective for not less than two (2) full taxable years after the election is made, and will continue to be in effect until terminated. The organization or entity must file with the director a written notice of termination of such election not later than thirty (30) days prior to the beginning of the taxable year for which such termination shall first be effective. The director may, in his discretion, terminate an election as provided in this section or extend the period within which a notice of election or a notice of termination must be filed. The director shall notify each nonprofit organization and governmental entity of any determination he makes of its status as an employer and of the effective date of any election ~~which~~ that it makes and of any termination of such election.

(4) Reimbursement payments. Payments in lieu of contributions shall be made in accordance with the provisions of this subsection, including either paragraph (a) or paragraph (b).

(a) At the end of each calendar quarter, or at the end of any other period as determined by the director, the director shall bill each organization or entity (or group of organizations or entities) ~~which~~ that has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits paid, and the amount paid for extended benefits for which the department is not reimbursed by the federal government, if paid as a result of wages earned in the employ of such organization or entity.

(b) Payment in advance. Nonprofit organizations or governmental entities may elect to make payments in lieu of contributions in advance of actual billing for payment costs. Advance payments shall be made as follows: At the end of each calendar quarter, the nonprofit organization or governmental entity shall pay one percent (1%) of its total quarterly payroll unless the director determines that a lesser percentage will cover the cost of payment of benefits to the employees of said employer. For purposes of this section, the total quarterly payroll for school districts shall be computed based upon only those school districts ~~which~~ that have elected cost reimbursement status. Such payments shall become due and payable within thirty (30) days following the quarter ending.

At the end of such taxable year, the director shall compute the benefit costs attributable to the employer as provided in subsection (2) of this section. The director will then debit the employer's account with these costs. When payments exceed benefit costs, either the employer will be credited on subsequent benefit costs with the overpayment or, at the director's discretion, the overpayment will be refunded to the employer. When payments are not sufficient to pay benefit costs, either the employer will be billed the additional amount necessary to pay such costs or, at the director's discretion, the employer's advance payment rate for the next taxable year will be set at a rate that will cover such costs.

(5) Bond requirements. Any nonprofit organization that elects to become liable for payments in lieu of contributions may be required to obtain and deposit with the director a surety bond approved by the director. The amount of the bond shall be determined by the director on the basis of potential liability for benefit costs of each employing nonprofit organization. Such bond shall be in force for a period of not less than two (2) years, and shall be renewed not less frequently than two (2) year intervals for as long as the organization continues to be liable for payments in lieu of contributions. The director shall require adjustments to be made in the bond filed as deemed appropriate. When upward adjustments are required, the adjusted bond shall be filed within thirty (30) days of the date notice of the required

adjustment was mailed. Failure by an organization covered by such bond to pay the full amount of payments due, together with interest and penalties, as provided in section 72-1354, Idaho Code, shall render the surety liable on said bond to the extent of the bond, as though the surety was a liable organization.

(6) Failure to pay timely. If any nonprofit organization or governmental entity is delinquent in making payments in lieu of contributions, the director may terminate such employer's election to make payments in lieu of contributions as of the beginning of the next taxable year, and such termination shall be effective for that and the next taxable year. Any nonprofit organization or governmental entity becoming delinquent in making payments in lieu of contributions shall be subject to the same penalty provisions as any other covered employer as provided in this chapter.

(7) Appeals procedure. ~~Nonprofit organizations and governmental entities making payments in lieu of contributions may appeal a determination made pursuant to this section as provided in Administrative determinations issued pursuant to this section shall become final unless, within fourteen (14) days after notice as provided in section 72-1368(5), Idaho Code, an appeal is filed with the department in accordance with the department's rules. Appeal proceedings shall be in accordance with the provisions of section 72-1361, Idaho Code.~~

(8) In the payment of any payments in lieu of contributions, a fractional part of a dollar shall be disregarded unless it amounts to fifty cents (50¢) or more, in which case it shall be increased to one dollar (\$1.00).

SECTION 2. That Section 72-1350, Idaho Code, be, and the same is hereby amended to read as follows:

72-1350. TAXABLE WAGE BASE AND TAXABLE WAGE RATES. (1) All remuneration for personal services as defined in section 72-1328, Idaho Code, equal to the average annual wage in covered employment for the penultimate calendar year, rounded to the nearest multiple of one hundred dollars (\$100), or the amount of taxable wage base specified in the federal unemployment tax act, whichever is higher, shall be the taxable wage base for purposes of this chapter.

(2) Prior to December 31 of each year, the director shall determine the taxable wage rates for the following calendar year for all covered employers, except cost reimbursement employers, in accordance with this section, provided however, and notwithstanding any other provision of the employment security law to the contrary, for calendar years 2005 and 2006, the taxable wage rates for all covered employers except cost reimbursement employers shall be determined as follows:

(a) For calendar year 2005, the taxable wage rate shall be determined using a base tax rate of one and fifty hundredths percent (1.50%);

(b) For calendar year 2006, the taxable wage rate shall be determined using a base tax rate of one and sixty-seven hundredths percent (1.67%) unless, at any time prior to September 30, 2005, the actual balance in the employment security fund, section 72-1346, Idaho Code, is fifty percent (50%) or less than the actual balance in the reserve fund, section 72-1347A, Idaho Code, in which case the taxable wage rate shall be determined using a base tax rate calculated in accordance with subsection (5) of this section.

(3) An average high cost ratio shall be determined by calculating the average of the three (3) highest benefit cost rates in the twenty (20) year period ending with the preceding year. For the purposes of this section, the "benefit cost rate" is the total annual benefits paid, including the state's share of extended benefits but excluding the federal share of extended benefits and cost reimbursable benefits, divided by the total annual covered wages excluding cost reimbursable wages. The resulting average high cost

ratio is multiplied by the desired fund size multiplier and the result, for the purposes of this section, is referred to as the "average high cost multiple" (AHCM). The desired fund size multiplier shall be eight tenths (0.8) and shall increase to nine tenths (0.9) on and after January 1, 2012; to one (1) on and after January 1, 2013; to one and one-tenth (1.1) on and after January 1, 2014; to one and two-tenths (1.2) on and after January 1, 2015; to one and three-tenths (1.3) on and after January 1, 2016; to one and four-tenths (1.4) on and after January 1, 2017; and to one and five-tenths (1.5) on and after January 1, 2018.

(4) The fund balance ratio shall be determined by dividing the actual balance of the employment security fund, section 72-1346, Idaho Code, and the reserve fund, section 72-1347A, Idaho Code, on September 30 of the current calendar year by the wages paid by all covered employers in Idaho, except cost reimbursement employers, in the preceding calendar year.

(5) The base tax rate shall be determined as follows:

(a) Divide the fund balance ratio by the AHCM;

(b) Subtract the quotient obtained from the calculation in paragraph ~~(5)~~(a) of this subsection from the number two (2);

(c) Multiply the remainder obtained from the calculation in paragraph ~~(5)~~(b) of this subsection by two and one-tenth percent (2.1%). The product obtained from this calculation shall equal the base tax rate, provided however, that the base tax rate shall not be less than sixty-three hundredths percent (0.63%) and shall not exceed three and thirty-six hundredths percent (3.36%).

(6) The base tax rate calculated in accordance with subsection (5) of this section shall be used to determine the taxable wage rate effective the following calendar year for all covered employers except cost reimbursement employers as provided in subsections (7) and (8) of this section.

(7) Table of Rate Classes, Tax Factors and Minimum and Maximum Taxable Wage Rates:

Rate Class	Cumulative Taxable Payroll Limits		Tax Factor	Eligible Employers	
	More Than (% of Taxable Payroll)	Equal to or Less Than (% of Taxable Payroll)		Minimum Taxable Wage Rate	Maximum Taxable Wage Rate
1	--	12	0.2857	0.180%	0.960%
2	12	24	0.4762	0.300%	1.600%
3	24	36	0.5714	0.360%	1.920%
4	36	48	0.6667	0.420%	2.240%
5	48	60	0.7619	0.480%	2.560%
6	60	72	0.8571	0.540%	2.880%
7	72	--	0.9524	0.600%	3.200%

Standard-Rated Employers

Tax Factor	Minimum Taxable Wage Rate	Maximum Taxable Wage Rate
1.000	1.000%	3.360%

Class	Cumulative Taxable Payroll Limits		Tax Factor	Deficit Employers	
	More Than (% of Taxable Payroll)	Equal to or Less Than (% of Taxable Payroll)		Minimum Taxable Wage Rate	Maximum Taxable Wage Rate
-1	--	30	1.7143	1.080%	4.800%
-2	30	50	1.9048	1.200%	5.200%
-3	50	65	2.0952	1.320%	5.600%
-4	65	80	2.2857	1.440%	6.000%
-5	80	95	2.6667	1.680%	6.400%
-6	95	--	2.6667	5.400%	6.800%

(8) Each covered employer, except cost reimbursement employers, will be assigned a taxable wage rate and a contribution rate as follows:

(a) Each employer, except standard-rated employers, will be assigned to one (1) of the rate classes for eligible and deficit employers provided in subsection (7) of this section based upon the employer's experience as determined under the provisions of sections 72-1319, 72-1319A, 72-1351 and 72-1351A, Idaho Code.

(b) For each rate class provided in subsection (7) of this section, the department will multiply the base tax rate determined in accordance with subsection (5) of this section by the tax factor listed for that rate class in the table provided in subsection (7) of this section. The product obtained from this calculation shall be the taxable wage rate for employers assigned to that rate class, provided however, that the taxable wage rate shall not be less than the minimum taxable wage rate assigned to that rate class and shall not exceed the maximum taxable wage rate assigned to that rate class in the table provided in subsection (7) of this section.

(c) For standard-rated employers, the department will multiply the base tax rate determined in accordance with subsection (5) of this section by the tax factor listed for standard-rated employers in the table provided in subsection (7) of this section. The product obtained from this calculation shall be the taxable wage rate for standard-rated employers, provided however, that the taxable wage rate shall not be less than the minimum taxable wage rate assigned to standard-rated employers and shall not exceed the maximum taxable wage rate assigned to standard-rated employers in the table provided in subsection (7) of this section.

(d) Deficit employers who have been assigned a taxable wage rate from deficit rate class six will be assigned contribution rates equal to their taxable wage rate.

(e) All other eligible, standard-rated and deficit employers will be assigned contribution rates equal to ninety-seven percent (97%) of their taxable wage rate. Provided however, that for each calendar year a reserve tax is imposed pursuant to section 72-1347A, Idaho Code, the contribution rates for employers assigned contribution rates pursuant to this paragraph shall be eighty percent (80%) of their taxable wage rate.

(9) Each employer shall be notified of his taxable wage rate as determined for any calendar year pursuant to this section and section 72-1351, Idaho Code. Such determination shall become conclusive and binding upon the employer, unless within fourteen (14) days after ~~delivery or mailing of the notice thereof to his last known address as provided in section 72-1368(5), Idaho Code,~~ the employer files an application for redetermination, setting forth his reasons therefor. Reconsideration shall be limited to transac-

tions occurring subsequent to any previous determination which has become final. The employer shall be promptly notified of the redetermination, which shall become final unless an appeal is filed within fourteen (14) days after ~~delivery or mailing of notice to his last known address as provided in section 72-1368(5), Idaho Code.~~ Proceedings on the appeal shall be in accordance with the provisions of section 72-1361, Idaho Code.

SECTION 3. That Section 72-1351, Idaho Code, be, and the same is hereby amended to read as follows:

72-1351. EXPERIENCE RATING AND VOLUNTARY TRANSFERS OF EXPERIENCE RATING ACCOUNTS. (1) Subject to the other provisions of this chapter, each eligible and deficit employer's, except cost reimbursement employers, taxable wage rate shall be determined in the manner set forth below for each calendar year:

(a) (i) Each eligible employer shall be given an "experience factor" which shall be the ratio of excess of contributions over benefits paid on the employer's account since December 31, 1939, to his average annual taxable payroll rounded to the next lower dollar amount for the four (4) fiscal years immediately preceding the computation date, except that when an employer first becomes eligible, his "experience factor" will be computed on his average annual taxable payroll for the two (2) fiscal years or more, but not to exceed four (4) fiscal years, immediately preceding the computation date. The computation of such "experience factor" shall be to six (6) decimal places.

(ii) Each deficit employer shall be given a "deficit experience factor" which shall be the ratio of excess of benefits paid on the employer's account over contributions since December 31, 1939, to his average annual taxable payroll rounded to the next lower dollar amount for one (1) or more fiscal years, but not to exceed four (4) fiscal years, for which he had covered employment ending on the computation date; provided, however, that any employer who on any computation date has a "deficit experience factor" for the period immediately preceding such computation date but who has filed all reports, paid all contributions and penalties due on or before the cut-off date, and has during the last four (4) fiscal years paid contributions at a rate of not less than the standard rate applicable for each such year and in excess of benefits charged to his experience rating account during such years, shall have any balance of benefits charged to his account which on the computation date immediately preceding such four (4) fiscal years was in excess of contributions paid, deleted from his account, and the excess benefits so deleted shall not be considered in the computation of his taxable wage rate for the rate years following such four (4) fiscal years. For the rate year following such computation date, he shall be given the standard rate for that year.

(iii) In the event an employer's coverage has been terminated because he has ceased to do business or because he has not had covered employment for a period of four (4) years, and if said employer thereafter becomes a covered employer, he will be considered as though he were a new employer, and he shall not be credited with his previous experience under this chapter for the purpose of computing any future "experience factor."

(iv) Benefits paid to a claimant whose employment terminated because the claimant's employer was called to active military duty shall not be used as a factor in determining the taxable wage rate of that employer.

(b) Schedules shall be prepared listing all eligible employers in inverse numerical order of their experience factors, and all deficit employers in numerical order of their deficit experience factors. There shall be listed on such schedules for each such employer in addition to the experience factor: (i) the amount of his taxable payroll for the fiscal year ending on the computation date, and (ii) a cumulative total consisting of the sum of such employer's taxable payroll for the fiscal year ending on the computation date and the corresponding taxable payrolls for all other employers preceding him on such schedules.

(c) The cumulative taxable payroll amounts listed on the schedules provided for in paragraph (b) of this subsection shall be segregated into groups whose limits shall be those set out in the table provided in section 72-1350(7), Idaho Code. Each of such groups shall be identified by the rate class number listed in the table which represents the percentage limits of each group. Each employer on the schedules shall be assigned a taxable wage rate in accordance with section 72-1350, Idaho Code.

(d) (i) If the grouping of rate classes requires the inclusion of exactly one-half (1/2) of an employer's taxable payroll, the employer shall be assigned the lower of the two (2) rates designated for the two (2) classes in which the halves of his taxable payroll are so required.

(ii) If the group of rate classes requires the inclusion of a portion other than exactly one-half (1/2) of an employer's taxable payroll, the employer shall be assigned the rate designated for the class in which the greater part of his taxable payroll is so required.

(iii) If one (1) or more employers on the schedules have experience factors identical to that of the last employer included in a particular rate class, all such employers shall be included in and assigned the taxable wage rate specified for such class, notwithstanding the provisions of paragraph (c) of this subsection.

(e) If the taxable payroll amount or the experience factor or both such taxable payroll amount and experience factor of any eligible or deficit employer listed on the schedules is changed, the employer shall be placed in that position on the schedules which he would have occupied had his taxable payroll amount and/or experience factor as changed been used in determining his position in the first instance, but such change shall not affect the position or rate classification of any other employer listed on the schedules and shall not affect the rate determination for previous years.

(2) For experience rating purposes, all previously accumulated benefit charges to covered employers' accounts, except cost reimbursement employers, shall not be changed except as provided in this chapter. Benefits paid prior to June 30 shall, as of June 30 of each year preceding the calendar year for which a covered employer's taxable wage rate is effective, be charged to the account of the covered employer, except cost reimbursement employers, who paid the largest individual amount of base period wages as shown on the determination used as the basis for the payment of such benefits, except that no charge shall be made to the account of such covered employer with respect to benefits paid under the following situations:

(a) If paid to a worker who terminated his services voluntarily without good cause attributable to such covered employer, or who had been discharged for misconduct in connection with such services;

(b) If paid in accordance with the provisions of section 72-1368(10), Idaho Code, and the decision to pay benefits is subsequently reversed;

(c) For that portion of benefits paid to multistate claimants pursuant to section 72-1344, Idaho Code, which exceeds the amount of benefits

that would have been charged had only Idaho wages been used in paying the claim;

(d) If paid in accordance with the extended benefit program triggered by either national or state indicators;

(e) If paid to a worker who continues to perform services for such covered employer without a reduction in his customary work schedule, and who is eligible to receive benefits due to layoff or a reduction in earnings from another employer;

(f) If paid to a worker who turns down an offer of suitable work because of participation in a job training program pursuant to the requirements of section 72-1366(8), Idaho Code.

(3) A covered employer whose experience rating account is chargeable, as prescribed by this section, is an interested party as defined in section 72-1323, Idaho Code. A determination of chargeability shall become final unless, within fourteen (14) days after notice as provided in section 72-1368(5), Idaho Code, an appeal is filed by an interested party with the department in accordance with the department's rules. Appeal proceedings shall be in accordance with the provisions of section 72-1361, Idaho Code.

(4) An experience rating record shall be maintained for each covered employer. The record shall be credited with all contributions which the covered employer has paid for covered employment prior to the cut-off date, pursuant to the provisions of this and preceding acts, and which covered employment occurred prior to the computation date. The record shall also be charged with the amount of benefits paid which are chargeable to the covered employer's account as provided by the appropriate provisions of the employment security law and regulations thereunder in effect at the time such benefits were paid. Nothing in this section shall be construed to grant any covered employer or individual in his service a priority with respect to any claim or right because of amounts paid by such covered employer into the employment security fund.

(5) (a) Whenever any individual or type of organization, whether or not a covered employer within the meaning of section 72-1315, Idaho Code, in any manner succeeds to, or acquires all or substantially all, of the business of an employer who at the time of acquisition was a covered employer, and in respect to whom the director finds that the business of the predecessor is continued solely by the successor, the separate experience rating account of the predecessor shall, upon the joint application of the predecessor and the successor within the one hundred eighty (180) days after such acquisition and approval by the director, be transferred to the successor employer for the purpose of determining such successor's liability and taxable wage rate and any successor who was not an employer on the date of acquisition shall as of such date become a covered employer as defined in this chapter. Such one hundred eighty (180) day period may be extended at the discretion of the director.

(b) Whenever any individual or type of organization, whether or not a covered employer within the meaning of section 72-1315, Idaho Code, in any manner succeeds to, or acquires, part of the business of an employer who at the time of acquisition was a covered employer, and such portion of the business is continued by the successor, so much of the separate experience rating account of the predecessor as is attributable to the portion of the business transferred, as determined on a pro rata basis in the same ratio that the wages of covered employees properly allocable to the transferred portion of the business bears to the payroll of the predecessor in the last four (4) completed calendar quarters immediately preceding the date of transfer, shall, upon the joint application of the predecessor and the successor within one hundred eighty (180) days after such acquisition and approval by the director, be transferred to the successor employer for the purpose of determining such

successor's liability and taxable wage rate, and any successor who was not an employer on the date of acquisition shall, as of such date, become a covered employer as defined in this chapter. Such one hundred eighty (180) day period may be extended at the discretion of the director.

(c) (i) If the successor was a covered employer prior to the date of the acquisition of all or a part of the predecessor's business, his taxable wage rate, effective the first day of the calendar quarter immediately following the date of acquisition, shall be a newly computed rate based on the combined experience of the predecessor and successor, the resulting rate remaining in effect the balance of the rate year.

(ii) If the successor was not a covered employer prior to the date of the acquisition of all or a part of the predecessor's business, his rate shall be the rate applicable to the predecessor with respect to the period immediately preceding the date of acquisition, but if there were more than one (1) predecessor the successor's rate shall be a newly computed rate based on the combined experience of the predecessors, becoming effective immediately after the date of acquisition, and shall remain in effect the balance of the rate year.

(d) For purposes of this section, an employer's experience rating account shall consist of the actual contribution, benefit and taxable payroll experience of the employer and any amounts due from the employer under this chapter. When a transferred experience rating account includes amounts due from the employer under this chapter, both the predecessor employer and the successor employer shall be jointly and severally liable for those amounts.

SECTION 4. That Section 72-1351A, Idaho Code, be, and the same is hereby amended to read as follows:

72-1351A. MANDATORY TRANSFERS OF EXPERIENCE RATING ACCOUNTS AND FEDERAL CONFORMITY PROVISIONS REGARDING TRANSFERS OF EXPERIENCE AND ASSIGNMENT OF RATES. Notwithstanding any other provision of this chapter, the following shall apply regarding transfers of experience and assignment of rates:

(1) (a) If a covered employer transfers its trade or business, or a portion thereof, to another employer, whether or not a covered employer within the meaning of section 72-1315, Idaho Code, and, at the time of the transfer, there is substantially common ownership, management or control of the two (2) employers, then the experience rating account attributable to the transferred trade or business shall be transferred to the employer to whom such business is so transferred. The rates of both employers shall be recalculated using the methods provided in section 72-1351(5) (b) and either (c) (i) or (c) (ii), Idaho Code. Whenever such mandatory transfer involves only a portion of the experience rating record, and the predecessor or successor employers fail within ten (10) days after notice to supply the required payroll information, the transfer may be based on estimates of the allocable payrolls.

(b) If, following a transfer of experience under paragraph (a) of this subsection ~~(1)~~, the director determines that a substantial purpose of the transfer of the trade or business was to obtain a reduced liability for contributions, then the experience rating accounts of the employers involved shall be combined into a single account and a single rate shall be assigned to such account.

(2) Whenever a person who is not a covered employer under this chapter at the time such person acquires the trade or business of a covered employer, the experience rating account of the acquired business shall not be transferred to such person if the director finds that such person acquired the business primarily for the purpose of obtaining a lower rate of

contributions. Instead, such person shall be assigned the standard rate for new employers under section 72-1350, Idaho Code. In determining whether the trade or business was acquired primarily for the purpose of obtaining a lower rate of contributions, the director shall use objective factors which may include, but are not limited to, the cost of acquiring the business, whether the person continued the business enterprise of the acquired business, how long such business enterprise was continued, or whether a substantial number of new employees were hired for performance of duties unrelated to the business activity conducted prior to acquisition.

(3) (a) It shall be a violation of this section if a person:

(i) Makes any false statement to the department when the maker knows the statement to be false or acts with deliberate ignorance of or reckless disregard for the truth of the matter or willfully fails to disclose a material fact to the department in connection with the transfer of a trade or business;

(ii) Prepares any false or antedated report, form, book, paper, record, written instrument, or other matter or thing in connection with the transfer of a trade or business with the intent to submit it or allow it to be submitted to the department as genuine or true;

(iii) Knowingly violates or attempts to violate subsection (1) or (2) of this section or any other provision of this chapter related to determining the assignment of a contribution rate or an experience rate; or

(iv) Knowingly advises another person in a way that results in a violation or an attempted violation of subsection (1) or (2) of this section or any other provision of this chapter related to determining the assignment of a contribution rate or an experience rate.

(b) If a person commits any of the acts described in paragraph (a) of this subsection ~~(3)~~, the person shall be subject to the following penalties:

(i) If the person is a covered employer, a civil money penalty of ten percent (10%) of such person's taxable wages for the four (4) completed consecutive quarters preceding the violation shall be imposed for such year and said penalty shall be deposited in the state employment security administrative and reimbursement fund as established by section 72-1348, Idaho Code.

(ii) If the person is not a covered employer, such person shall be subject to a civil money penalty of not more than five thousand dollars (\$5,000) for each violation. Any such penalty shall be deposited in the state employment security administrative and reimbursement fund as established by section 72-1348, Idaho Code.

(4) Every person who knowingly makes any false statement to the department or knowingly fails to disclose a material fact to the department in connection with the transfer of a trade or business, or knowingly prepares any false or antedated report, form, book, paper, record, written instrument, or other matter or thing in connection with the transfer of a trade or business with the intent to submit it or allow it to be submitted to the department as genuine or true, or knowingly violates or attempts to violate subsection (1) or (2) of this section or any other provision of this chapter related to determining the assignment of a contribution rate or an experience rate, or knowingly advises another person to act in a way that results in a violation or an attempted violation of subsection (1) or (2) of this section or any other provision of this chapter related to determining the assignment of a contribution rate or an experience rate, shall be guilty of a felony punishable as provided in section 18-112, Idaho Code.

(5) For purposes of this section:

(a) An employer's experience rating account shall consist of the actual contribution, benefit and taxable payroll experience of the employer

and any amounts due from the employer under this chapter. When a transferred experience rating account includes amounts due from the employer under this chapter, both the predecessor employer and the successor employer shall be jointly and severally liable for those amounts.

(b) "Knowingly" means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibition involved.

(c) "Person" has the meaning given such term by section 7701(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C. 7701(a)(1)).

(d) A "transfer of a trade or business" occurs whenever a person in any manner acquires or succeeds to all or a portion of a trade or business. Factors the department may consider when determining whether a transfer of a trade or business has occurred include, but are not limited to, the following:

(i) Whether the successor continued the business enterprise of the acquired business;

(ii) Whether the successor purchased, leased or assumed machinery and manufacturing equipment, office equipment, business premises, the business or corporate name, inventories, a covenant not to compete or a list of customers;

(iii) Continuity of business relationships with third parties such as vendors, suppliers and subcontractors;

(iv) A transfer of good will;

(v) A transfer of accounts receivable;

(vi) Possession and use of the predecessor's sales correspondence; and

(vii) Whether the employees remained the same.

(e) "Trade or business" includes, but is not limited to, the employer's workforce. The transfer of some or all of an employer's workforce to another employer shall be considered a transfer of a trade or business when, as the result of such transfer, the transferring employer no longer performs trade or business with respect to the transferred workforce, and such trade or business is performed by the employer to whom the workforce is transferred.

(f) "Violates or attempts to violate" includes, but is not limited to, intent to evade, misrepresentation or willful nondisclosure.

(6) The director shall establish procedures to identify the transfer or acquisition of a business for purposes of this section.

(7) This section shall be interpreted and applied in such a manner as to meet the minimum requirements contained in any guidance or regulations issued by the United States department of labor.

(8) Administrative determinations issued pursuant to this section shall become final unless, within fourteen (14) days after notice as provided in section 72-1368(5), Idaho Code, an appeal is filed with the department in accordance with the department's rules. Appeal proceedings shall be in accordance with the provisions of section 72-1361, Idaho Code.

SECTION 5. That Section 72-1353, Idaho Code, be, and the same is hereby amended to read as follows:

72-1353. ADMINISTRATIVE DETERMINATIONS OF COVERAGE. (1) The director may, upon his own motion or upon application of any employer, make findings of fact and on the basis thereof determine whether such employer is a covered employer and whether services performed for or in connection with the business of such employer constitutes covered employment. The determination shall become final unless, within fourteen (14) days after notice as provided in section 72-1368(5), Idaho Code, an appeal is filed with the department setting forth the grounds for such appeal. ~~A notice shall be deemed served if delivered to the person being served or if mailed to his last known address; service by mail shall be deemed complete on the date of mailing.~~

Proceedings on appeal shall be had in accordance with the provisions of section 72-1361, Idaho Code.

(2) In making any determination with respect to whether the services performed by a worker are performed in covered employment, the director may, on the basis of the available evidence, determine that other workers performing similar services for the employer are similarly situated with respect to the coverage of said services under the provision of this chapter, and that such services constitute covered employment.

(3) In any proceeding to determine whether an employer is a covered employer or whether services are performed in covered employment, it shall be the burden of the employer to prove that the employer is not a covered employer, that services were not performed in covered employment, or that workers are not similarly situated with respect to the coverage of their services.

SECTION 6. That Section 72-1357, Idaho Code, be, and the same is hereby amended to read as follows:

72-1357. ADJUSTMENTS AND REFUNDS. (1) If any person shall make application for a refund or credit of any amounts paid under this chapter, the director shall, upon determining that such amounts or any portion thereof was erroneously collected, either allow credit therefor, without interest, in connection with subsequent payments, or shall refund from the fund in which the erroneous payment was deposited, without interest, the amount erroneously paid.

(2) No refund or credit shall be allowed unless an application therefor is made on or before whichever of the following dates is later:

(a) One (1) year from the date on which such payment was made; or

(b) Three (3) years from the last day of the calendar quarter with respect to which such payment was made. For a like cause and within the same period a refund may be so made, or credit allowed, on the initiative of the director. Nothing in this chapter shall be construed to authorize any refund or credit of moneys due and payable under the law and regulations in effect at the time such moneys were paid.

(3) In the event that any application for refund or credit is rejected in whole or in part, a written notice of rejection shall be forwarded to the applicant. Within fourteen (14) days after ~~the mailing of such notice to the applicant's last known address, or in the absence of such mailing,~~ within fourteen (14) days after delivery thereof notice as provided in section 72-1368 (5), Idaho Code, the applicant may appeal to the director for a hearing with regard to the rejection, setting forth the grounds for such appeal. Proceedings on the appeal shall be in accordance with the provisions of section 72-1361, Idaho Code.

SECTION 7. That Section 72-1358, Idaho Code, be, and the same is hereby amended to read as follows:

72-1358. DETERMINATION OF AMOUNTS DUE UPON FAILURE TO REPORT. If any covered employer fails to file a report when due under this chapter, or if such report when filed is incorrect or insufficient, the director may, on the basis of available information, determine the amount of wages paid in covered employment during the periods with respect to which the reports were or should have been made and the amount due under this chapter from the employer. ~~The director shall give written notice of the determination to the employer. The determination shall become final unless the employer, within fourteen (14) days after the mailing of the notice to the employer's last known address, or, in the absence of such mailing, within fourteen (14) days after delivery thereof~~ notice as provided in section 72-1368 (5), Idaho Code,

files an appeal with the department. Proceedings on the appeal shall be in accordance with the provisions of section 72-1361, Idaho Code.

SECTION 8. That Section 72-1359, Idaho Code, be, and the same is hereby amended to read as follows:

72-1359. JEOPARDY ASSESSMENTS. If the director determines that the collection of any amounts due from any covered employer under the provisions of this chapter will be jeopardized by delay, he may, whether or not the time prescribed by this chapter or any rules issued pursuant thereto for making reports and payments has expired, determine, on the basis of available information, the wages paid by such employer for covered employment and declare the amount due thereon immediately payable, and shall give written notice of such declaration to such employer. Any amounts, including penalty and interest, that are contained in such written declaration shall be subject to immediate seizure pursuant to section 72-1360A, Idaho Code, as well as through any other collection procedures allowed under law. Such jeopardy assessment shall become conclusive and binding upon the employer unless, within fourteen (14) days after the mailing of such declaration to the last known address of such employer or in the absence of such mailing, within fourteen (14) days after personal delivery upon the employer notice as provided in section 72-1368(5), Idaho Code, the employer files an appeal to the department setting forth grounds for such appeal. In such cases, the right of appeal shall be conditioned upon the payment of the amount declared to be due, less any amount already collected, or upon giving appropriate security to the director for the payment thereof. Proceedings on such appeals shall be in accordance with the provisions of section 72-1361, Idaho Code.

SECTION 9. That Section 72-1361, Idaho Code, be, and the same is hereby amended to read as follows:

72-1361. APPEALS TO THE DEPARTMENT AND TO THE COMMISSION. Upon appeal from a denial of a claim for refund or credit, determination of amounts due upon failure to report, determination of rate of contribution, determination of coverage, determination of chargeability, ~~or~~ jeopardy determination, cost reimbursement determination, determination of mandatory transfer of experience rating, or determination of successor liability, the director may transfer the appeal directly to an appeals examiner pursuant to section 72-1368(6), Idaho Code, or he may issue a redetermination affirming, reversing or modifying the initial determination. A redetermination shall become final unless, within fourteen (14) days after notice as provided in section 72-1368(5), Idaho Code, an appeal is filed by an interested party with the department in accordance with the department's rules. Appeal procedures shall be governed by the provisions of section 72-1368(4), (6), (7), (8), (9) and (11), Idaho Code. The party appealing shall have the burden of proving each issue appealed by clear and convincing evidence. The provisions of the Idaho administrative procedure act, chapter 52, title 67, Idaho Code, regarding contested cases and judicial review of contested cases are inapplicable to proceedings involving interested employers under this chapter.

SECTION 10. That Section 72-1362, Idaho Code, be, and the same is hereby amended to read as follows:

72-1362. LIABILITY OF SUCCESSOR. Any person, whether or not a covered employer, who acquires the organization, trade, or business or a substantial part of the assets thereof, from a covered employer, shall be liable, in an amount not to exceed the reasonable value of the organization, trade, business, or assets acquired, for any contributions or penalties due or accrued

and unpaid by such covered employer, and the amount of such liability shall, in addition, be a lien against the property or assets so acquired which shall be prior to all other liens; provided, that the lien shall not be valid against one who acquires from the said predecessor any interest in the said property or assets in good faith, for value and without notice of the lien. The director shall, upon written request therefor, and with permission of the owner, furnish such prospective purchaser with a written statement of the amount of contributions and penalties due or accrued and unpaid by the said covered employer as of the date of such acquisition, and the amount of the liability of the successor or the amount of the said lien shall in no event exceed the liability disclosed by such statement. The foregoing remedies shall be in addition to all other existing remedies against the covered employer or his successor. Administrative determinations issued pursuant to this section shall become final unless, within fourteen (14) days after notice as provided in section 72-1368(5), Idaho Code, an appeal is filed with the department in accordance with the department's rules. Appeal proceedings shall be in accordance with the provisions of section 72-1361, Idaho Code.

Approved March 23, 2016

CHAPTER 159
(H.B. No. 426)

AN ACT

RELATING TO STATE'S GUARANTY AND BONDHOLDERS; AMENDING SECTION 33-5303, IDAHO CODE, TO PROVIDE THAT GUARANTEED BONDS THAT ARE ADVANCE REFUNDED AND BOND PROCEEDS HELD IN ESCROW NO LONGER HAVE THE BENEFIT OF THE GUARANTY PROVIDED BY CHAPTER 53, TITLE 33, IDAHO CODE, FROM AND AFTER THE DATE ON WHICH THE PROCEEDS FROM THE ADVANCE REFUNDING HAVE BEEN PLACED IN AN IRREVOCABLE ESCROW AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 33-5303, Idaho Code, be, and the same is hereby amended to read as follows:

33-5303. STATE'S GUARANTY -- MONITORING OF FINANCIAL SOLVENCY CONTRACT WITH BONDHOLDERS -- GUARANTY -- LIMITATION AS TO CERTAIN REFUNDED BONDS.

(1) (a) The state of Idaho pledges to and agrees with the holders of any bonds that the state will not alter, impair, or limit the rights vested by the default avoidance program with respect to the bonds until the bonds, together with applicable interest, are fully paid and discharged.

(b) Notwithstanding subsection ~~(1)~~ paragraph (a) of this subsection, nothing contained in this chapter precludes an alteration, impairment, or limitation if adequate provision is made by law for the protection of the holders of the bonds.

(c) Each school district may refer to this pledge and undertaking by the state in its bonds.

(2) (a) The sales tax of the state is pledged to guarantee full and timely payment of the principal of, either at the stated maturity or by any advancement of maturity pursuant to a mandatory sinking fund payment, and interest on, refunding bonds issued on and after March 1, 1999, for voter-approved bonds which were voted on by the electorate prior to March 1, 1999, and voter-approved bonds which were voted on by the electorate on and after March 1, 1999, as such payments shall

become due, except that in the event of any acceleration of the due date of such principal by reason of mandatory or optional redemption or acceleration resulting from default or otherwise, other than any advancement of maturity pursuant to a mandatory sinking fund payment, the payments guaranteed shall be made in such amounts and at such times as such payments of principal would have been due had there not been any such acceleration.

(b) This guaranty does not extend to the payment of any redemption premium.

(c) Reference to this chapter by its title on the face of any bond conclusively establishes the guaranty provided to that bond under provisions of this chapter.

(3) (a) Any bond guaranteed under this chapter that is currently refunded and considered paid for, no longer has the benefit of the guaranty provided by this chapter from and after the date on which that bond was considered to be paid.

(b) ~~Any refunding bond issued by a school district that is itself secured by government obligations until the proceeds are applied to pay refunded bonds is not guaranteed under the provisions of this chapter, until the refunding bonds cease to be secured by government obligations~~ In accordance with section 57-504(7), Idaho Code, any bond guaranteed under this chapter that is advance refunded and is itself secured by bond proceeds held in escrow no longer has the benefit of the guaranty provided by this chapter from and after the date on which the proceeds from the advance refunding have been placed in an irrevocable escrow.

(4) Only validly issued bonds issued after the effective date of this chapter are guaranteed under this chapter.

Approved March 23, 2016

CHAPTER 160
(H.B. No. 427)

AN ACT

RELATING TO THE IDAHO BOND BANK ADMINISTRATIVE FUND; AMENDING SECTION 67-8729, IDAHO CODE, TO APPROPRIATE FUNDS TO THE IDAHO BOND BANK AUTHORITY AND TO AUTHORIZE REIMBURSEMENT OF COSTS INCURRED BY THE STATE TREASURER.

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

SECTION 1. That Section 67-8729, Idaho Code, be, and the same is hereby amended to read as follows:

67-8729. IDAHO BOND BANK ADMINISTRATIVE FUND. (1) There is hereby created in the state treasury the "Idaho Bond Bank Administrative Fund" to which shall be credited:

(a) Fees collected from municipalities or other potential sellers of municipal bonds in connection with application for and receipt of financing under this chapter, and interest and other charges on or in connection with municipal bonds purchased as it may deem necessary or appropriate to cover all costs and expenses of the authority and its operations;

(b) Fees and charges collected to cover costs associated with the powers and duties of the authority as required in section 67-8705, Idaho Code;

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

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

(2) Moneys in the fund shall be continuously appropriated to the ~~treasurer of the state of Idaho~~ authority, and any moneys remaining in the fund at the end of each fiscal year shall not be appropriated to any other fund.

(3) Moneys in the fund shall only be used to effect the purposes of chapter 87, title 67, Idaho Code, pursuant to the provisions as prescribed therein; provided however, ~~the Idaho bond bank administrative fund is authorized to retain a portion of the moneys not to exceed one-half of one percent (0.5%) of the fund's annual revenues to defray~~ authority may approve reimbursement of the state treasurer's costs associated with the implementation, administration and oversight of the Idaho bond bank authority.

Approved March 23, 2016

CHAPTER 161
(H.B. No. 429)

AN ACT

RELATING TO CONTROLLED SUBSTANCES; AMENDING SECTION 37-2738, IDAHO CODE, TO PROVIDE THAT CERTAIN REQUIREMENTS FOR GRANTING OF A WITHHELD JUDGMENT SHALL NOT APPLY TO CERTAIN DEFENDANTS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 37-2738, Idaho Code, be, and the same is hereby amended to read as follows:

37-2738. SENTENCING CRITERIA IN DRUG CASES. (1) Any person who pleads guilty to, is found guilty of or has a judgment of conviction entered upon a violation of the provisions of subsection (a), (b), (c) or (e) of section 37-2732, Idaho Code, shall be sentenced according to the criteria set forth herein.

(2) Prior to sentencing for a violation enumerated in subsection (1) of this section, the defendant shall undergo, at his own expense (or at county expense through the procedures set forth in chapters 34 and 35, title 31, Idaho Code), a substance abuse evaluation at a facility approved by the Idaho department of health and welfare. Provided however, if the defendant has no prior or pending charges under the provisions of subsection (a), (b), (c) or (e) of section 37-2732, Idaho Code, and the court does not have any reason to believe that the defendant regularly abuses drugs and is in need of treatment, the court may, in its discretion, waive the evaluation with respect to sentencing for a violation of subsection (b), (c) (3), or (e) of section 37-2732, Idaho Code, and proceed to sentence the defendant. The court may also, in its discretion, waive the requirement of a substance abuse evaluation with respect to a defendant's violation of the provisions of subsection (a), (b), (c) or (e) of section 37-2732, Idaho Code, and proceed to sentence the defendant if the court has a presentence investigation report, substance abuse assessment, criminogenic risk assessment, or similar assessment which has evaluated the defendant's need for substance abuse treatment conducted within twelve (12) months preceding the date of the defendant's sentencing.

(3) In the event a substance abuse evaluation indicates the need for substance abuse treatment, the evaluation shall recommend an appropriate treatment program, together with the estimated costs 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 to determine 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 substance abuse treatment is needed unless it is shown 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 or report an aggravating circumstance in determining an appropriate sentence. If treatment is ordered, the person or facility performing the evaluation shall not be the person or facility that provides the treatment, unless this requirement is waived by the sentencing court, and with the exception of federally recognized Indian tribes or federal military installations where diagnoses 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 substance abuse treatment for indigent defendants.

(4) When sentencing an individual for the crimes enumerated in subsection (1) of this section, the court shall not enter a withheld judgment unless it finds by a preponderance of the evidence that:

- (a) The defendant has no prior finding of guilt for any felony, any violation of chapter 80, title 18, Idaho Code, or subsection (a), (b), (c) or (e) of section 37-2732, Idaho Code, whatsoever; and
- (b) The sentencing court has an abiding conviction that the defendant will successfully complete the terms of probation; and
- (c) The defendant has satisfactorily cooperated with law enforcement authorities in the prosecution of drug related crimes of which the defendant has previously had involvement.

The requirements for the granting of a withheld judgment pursuant to this subsection shall not apply to a defendant who has been admitted to a problem solving court program approved by the drug court and mental health court coordinating committee and is participating in, or about to begin participating in, such a program, or who participated in such a problem solving court program in connection with the pending case and who successfully graduated from such a program prior to sentencing.

(5) Any person who pleads guilty to or is found guilty of a violation of the provisions of the Idaho Code identified in subsection (1) of this section shall, when granted a probationary period of any sort whatsoever, be required by the court to complete a period of not less than one hundred (100) hours of community service work.

Approved March 23, 2016

CHAPTER 162
(H.B. No. 436)

AN ACT

RELATING TO IDAHO DAY; AMENDING SECTION 73-108C, IDAHO CODE, TO REVISE THE DAY OF CELEBRATION FOR IDAHO DAY IF MARCH 4 FALLS ON A SATURDAY OR SUNDAY.

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

SECTION 1. That Section 73-108C, Idaho Code, be, and the same is hereby amended to read as follows:

73-108C. IDAHO DAY. March 4 shall be designated as Idaho day. If March 4 falls on a Sunday, the following Monday~~, March 5,~~ shall be celebrated as Idaho day; and if March 4 falls on a Saturday, the preceding Friday~~, March 3,~~

shall be celebrated as Idaho day. The governor of the state of Idaho shall issue a proclamation each year marking Idaho day. The president pro tempore of the senate and the speaker of the house of representatives shall conduct appropriate ceremonies and programs on Idaho day to honor Idaho's heritage. The Idaho state historical society shall conduct appropriate activities and be encouraged to create exhibitions to commemorate Idaho day. The people of Idaho shall be encouraged to display the Idaho and United States flags on Idaho day. Idaho day shall not constitute a reason to close state and political subdivision offices.

Approved March 23, 2016

CHAPTER 163
(H.B. No. 441)

AN ACT

RELATING TO COSMETICIANS; AMENDING SECTION 54-815, IDAHO CODE, TO REVISE LICENSE RENEWAL AND REINSTATEMENT PROVISIONS.

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

SECTION 1. That Section 54-815, Idaho Code, be, and the same is hereby amended to read as follows:

~~54-815. RENEWAL AND REINSTATEMENT OF LICENSES. Every license required by this chapter must be renewed annually, at the prescribed annual fee, in accordance with section 67-2614, Idaho Code. An expired license may be reinstated. All licenses issued under the provisions of this chapter shall be subject to annual renewal and shall expire unless renewed in the manner prescribed by the board regarding applications for renewal, continuing education, and fees. License renewal and reinstatement shall be in accordance with Licenses must be renewed annually and may be reinstated within five (5) years after expiration, both as provided in section 67-2614, Idaho Code. The reinstatement fee shall be the sum of the accumulated annual renewal fees for the lapsed period, plus the current renewal fee and a twenty-five dollar (\$25.00) penalty.~~

Approved March 23, 2016

CHAPTER 164
(H.B. No. 447, As Amended in the Senate)

AN ACT

RELATING TO PUBLIC RECORDS; AMENDING SECTION 74-105, IDAHO CODE, TO PROVIDE THAT RECORDS RELATED TO PROPOSED OR EXISTING CRITICAL INFRASTRUCTURE HELD BY OR IN THE CUSTODY OF ANY PUBLIC AGENCY SHALL BE EXEMPT FROM DISCLOSURE, TO REVISE A DEFINITION AND PROVIDE A DEFINITION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 74-105, Idaho Code, be, and the same is hereby amended to read as follows:

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, other than public expenditure records, related to proposed or existing critical infrastructure held by or in the custody of any public agency only when the disclosure of such information would be reasonably likely to jeopardize the safety of persons, property 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 includes electrical, computer and telecommunication systems, electric power, (including production, generating, transportation, transmission and distribution), heating, ventilation, and air conditioning and telecommunication systems. For purposes of this subsection, "critical infrastructure" means any system or asset, whether physical or virtual, so vital to the state of Idaho, including its political subdivisions, that the incapacity or destruction of such system or asset would have a debilitating impact on state or national economic security, state or national public health or safety or any combination of those matters.

(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(16), 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.

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 23, 2016

CHAPTER 165
(H.B. No. 456)

AN ACT

RELATING TO GRAPES AND WINE; AMENDING SECTION 54-3610, IDAHO CODE, TO REVISE PROVISIONS REGARDING TAX ON THE PRODUCTION OF WINE AND TAX ON CERTAIN GRAPES AND GRAPE JUICE.

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

SECTION 1. That Section 54-3610, Idaho Code, be, and the same is hereby amended to read as follows:

54-3610. IMPOSITION OF TAX AND PROVISION FOR LATE FEES. (1) From and after the first day of July, 1995, there is hereby levied and imposed a tax payable to the commission on the production of wine in Idaho, and on all grapes grown and grape juice purchased in Idaho for the production of wine in Idaho, and on all grapes and grape juice purchased from producers outside the state Idaho for the production of wine in Idaho. The commission shall set the each tax by rule. and ~~the~~ The minimum tax to each grower for grapes grown in Idaho shall be set at one hundred dollars (\$100) annually. The tax on each

winery for the production of wine shall be set at a minimum of one hundred dollars (\$100) annually. ~~Grapes and grape juice purchased from producers outside Idaho shall be taxed at a minimum of five dollars (\$5.00) per ton or per one hundred sixty-seven (167) gallons or any portion thereof. The purchasers of such grapes grown or grape juice produced outside the state shall be responsible for submitting the tax to the commission.~~

(2) Any person or firm who makes payment to the commission at a date later than that prescribed in this section or by rule may be subject to a late payment penalty as set forth by the commission by rule. Such penalty shall not exceed the rate of fifteen percent (15%) per annum on the amount due. In addition to the above penalty, the commission shall be entitled to recover all costs, fees, and reasonable attorney's fees incurred in the collection of the tax and penalty provided for in this section.

Approved March 23, 2016

CHAPTER 166

(H.B. No. 458, As Amended in the Senate)

AN ACT

RELATING TO ADVANCED OPPORTUNITIES; AMENDING SECTION 33-4601, IDAHO CODE, TO REVISE DEFINITIONS; REPEALING SECTION 33-4602, IDAHO CODE, RELATING TO ADVANCED OPPORTUNITIES; AMENDING CHAPTER 46, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-4602, IDAHO CODE, TO PROVIDE FOR ADVANCED OPPORTUNITIES AND RELATED PROVISIONS AND TO GRANT THE STATE BOARD OF EDUCATION RULEMAKING AUTHORITY; REPEALING SECTION 33-4603, IDAHO CODE, RELATING TO THE "8 IN 6 PROGRAM"; REPEALING SECTION 33-4604, IDAHO CODE, RELATING TO THE MASTERY ADVANCEMENT PROGRAM; REPEALING SECTION 33-4605, IDAHO CODE, RELATING TO RULEMAKING AUTHORITY; AMENDING SECTION 33-1002, IDAHO CODE, TO REMOVE REFERENCE TO A CERTAIN PROGRAM, TO MAKE CODIFIER'S CORRECTIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-1002, IDAHO CODE, AS AMENDED BY SECTION 2, CHAPTER 229, LAWS OF 2015, TO REMOVE REFERENCE TO A CERTAIN PROGRAM, TO MAKE CODIFIER'S CORRECTIONS 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 33-4601, Idaho Code, be, and the same is hereby amended to read as follows:

33-4601. DEFINITIONS. For purposes of this chapter, the following definitions shall apply:

- (1) "Credit" means middle level or high school credit.
- (2) "Dual credit" as defined in section 33-5102, Idaho Code.
- (3) "Full course credit load" means at least twelve (12) credits per school year for grades 7-12 or the maximum number of credits offered by the student's school during the regular school day per school year, whichever is greater.
- (4) "Overload course" means a course taken that is in excess of a full course credit 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 spring semester leading up to the break between grades and ends upon the beginning of the same break of the following year.

SECTION 2. That Section 33-4602, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Chapter 46, 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 33-4602, Idaho Code, and to read as follows:

33-4602. ADVANCED OPPORTUNITIES -- RULEMAKING. (1) Students attending public schools in Idaho will be eligible for four thousand one hundred twenty-five dollars (\$4,125) to use toward overload courses, dual credits, college credit-bearing examinations and professional certificate examinations. Students may access these funds in grades 7 through 12 for:

(a) Overload courses, the distribution of which may not exceed two hundred twenty-five dollars (\$225) per overload course. A student must take and successfully be completing a full credit load within a given school year to be eligible for funding of an overload course. An overload course must be taken for high school credit to be eligible for funding.

(b) Dual credits, the distribution of which may not exceed seventy-five dollars (\$75.00) per one (1) dual credit hour.

(c) Eligible college credit-bearing or professional certificate examinations.

(2) To qualify as an eligible overload course for the program, the course must be 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. Eligible examinations include advanced placement (AP), international baccalaureate (IB), college-level examination program (CLEP) and professional-technical examinations. The state department of education shall maintain a list of such examinations and costs.

(3) 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 the house of representatives details regarding the number of students benefiting from assistance with the cost of overload courses, dual credit courses and examinations, the number of credits awarded and amounts paid pursuant to this subsection during the previous school year.

(4) The board of each public school may set forth criteria by which a student may challenge a course. If a student successfully meets the criteria set forth by the board of the public school, then the student shall be counted as having completed all required coursework for that course. The public school, with the exception of Idaho tribal schools, shall be funded for such students based upon either actual hours of attendance or the course that the student has successfully passed, whichever is more advantageous to the public school, up to the maximum of one (1) full-time student.

(5) Any student who successfully completes public school grades 1 through 12 curriculum at least one (1) year early shall be eligible for an advanced opportunities scholarship. The scholarship 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 through 12 curriculum avoided by the student's early graduation. Each public school shall receive an amount equal to each such awarded scholarship for each student that graduates early from their public school.

(6) The state department of education shall reimburse public schools or public postsecondary educational institutions, 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. The submission method and timelines of reimbursement data shall be determined by the state department of education. Payments will be made only for activity occurring and reported within each fiscal year.

(7) For public funding purposes, average daily attendance shall be counted as normal for students participating in dual credit courses pursuant to this section.

(8) If a student fails to earn credit for any course for which the department has paid a reimbursement, the student must pay for and successfully earn credit for one (1) like course before the state department of education may pay any further reimbursements for the student. If a student performs inadequately on an examination for which the state department of education has paid a reimbursement, the public school shall determine whether the student must pay for and successfully pass such examination to continue receiving state funding. Repeated and remedial courses or examinations are not eligible for funding through these programs.

(9) 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.

(10) 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 also considers the challenges and time necessary to succeed in the program and shall make reasonable efforts to include guidance on how the student's participation in the program contributes to prospective college and career pathways. Such efforts by the district shall be performed prior to a student participating in the program and throughout their involvement in the program.

(11) 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. Participation in this program requires parent and student agreement to program requirements and completion of the state department of education's participation form documenting the program requirements.

(12) Parents of participating students may enroll their child in any eligible course, with or without the permission of the public school in which the student is enrolled. 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 high school 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 or dual credit courses taken pursuant to this section. For an eligible course to be transcribed as meeting the requirements of a core subject as identified in administrative rule, the course must meet the approved content standards for the applicable subject and grade level.

(13) Participating public schools shall collaborate with Idaho public postsecondary educational institutions to assist students who seek to participate in dual credit courses or graduate from high school early by en-

rolling 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 the house of representatives any difficulties or obstacles they experience in providing assistance to participating students.

(14) The state board of education may promulgate rules to implement the provisions of this chapter.

SECTION 4. That Section 33-4603, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Section 33-4604, Idaho Code, be, and the same is hereby repealed.

SECTION 6. That Section 33-4605, Idaho Code, be, and the same is hereby repealed.

SECTION 7. 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 33-4602, Idaho Code;

(o) ~~For the "8 in 6 program" as provided for in section 33-4603, 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 three hundred dollars (\$300) per support unit;

~~(s)~~ An amount specified in the appropriation bill for the public schools educational support program for counseling support as provided for in section 33-1212A, Idaho Code, shall be distributed, in full or pro rata, based on one hundred twenty dollars (\$120) per first reporting period support unit for grades 8 through 12 or ten thousand dollars (\$10,000), whichever is greater; and

~~(t)~~ 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 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 SUPPORT UNITS
(Computation of alternative school support units shall include
grades 6 through 12)

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 fewer 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 school in a school district reporting less fewer than one hundred (100) secondary students in average daily attendance shall not be assigned to the alternative table if the student is from a school district reporting less fewer 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 school, unless the alternative school in question serves students from multiple districts reporting less fewer than one hundred (100) secondary students in average daily attendance. The tables for exceptional education and alternative school 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 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, subparagraph (i) of this paragraph, and the support units allowance for

the approved exceptional child program, subparagraph (ii) of this 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, paragraph (b) of this subsection.

(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 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.

SECTION 8. That Section 33-1002, Idaho Code, as amended by Section 2, Chapter 229, Laws of 2015, 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 33-4602, Idaho Code;
- (o) ~~For the "8 in 6 program" as provided for in section 33-4603, 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 master teacher premiums as provided in section 33-1004I, Idaho Code;
- (r) For the support of provisions that provide a safe environment conducive to student learning and maintain classroom discipline, an allocation of three hundred dollars (\$300) per support unit;
- (s) An amount specified in the appropriation bill for the public schools educational support program for counseling support as provided for in section 33-1212A, Idaho Code, shall be distributed, in full or pro rata, based on one hundred twenty dollars (\$120) per first reporting period support unit for grades 8 through 12 or ten thousand dollars (\$10,000), whichever is greater; and
- (t) Any additional amounts as required by statute to effect administrative adjustments or as specifically required by the provisions of any bill of appropriation; and
- ~~(u)~~ 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 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 SUPPORT UNITS

(Computation of alternative school support units shall include grades 6 through 12)

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 fewer 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 school in a school district reporting less fewer than one hundred (100) secondary students in average daily attendance shall not be assigned to the alternative table if the student is from a school district reporting less fewer 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 school, unless the alternative school in question serves students from multiple districts reporting less fewer than one hundred (100) secondary students in average daily attendance. The tables for exceptional education and alternative school 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 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, subparagraph (i) of this subparagraph, and the support units allowance for the approved exceptional child program, subparagraph (ii) of this subparagraph.

(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, paragraph (b) of this subsection.

(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 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.

SECTION 9. The provisions of Section 8 of this act shall be in full force and effect on and after July 1, 2019.

Approved March 23, 2016

CHAPTER 167
(H.B. No. 464)

AN ACT

RELATING TO DUTIES OF THE STATE TREASURER; AMENDING SECTION 67-1201, IDAHO CODE, TO REMOVE REFERENCE TO PUBLIC ENDOWMENTS; AMENDING SECTION 67-1202, IDAHO CODE, TO PROVIDE FOR INVESTMENT OF ENDOWMENTS UNDER THE AUTHORITY OF THE ENDOWMENT FUND INVESTMENT BOARD OR THE STATE BOARD OF LAND COMMISSIONERS AND TO PROVIDE FOR EXERCISE OF THE TREASURER'S DUTY AS CUSTODIAN OF THE PUBLIC SCHOOL PERMANENT ENDOWMENT FUND; AMENDING SECTION 67-1210, IDAHO CODE, TO REMOVE REFERENCE TO PUBLIC ENDOWMENT FUNDS AND TO CORRECT TERMINOLOGY; AMENDING CHAPTER 12, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1227, IDAHO CODE, TO GRANT

AUTHORITY TO INVEST FUNDS EXCLUDED FROM THE TREASURER'S DUTIES UNDER A CERTAIN CODE SECTION; AMENDING CHAPTER 12, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1228, IDAHO CODE, TO ESTABLISH A FUND FOR COSTS PAID BY AGENCIES FOR INVESTMENT BY THE TREASURER; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-1201, Idaho Code, be, and the same is hereby amended to read as follows:

67-1201. DUTIES OF TREASURER. It is the duty of the treasurer:

1. To receive and keep all moneys belonging to the state not required to be received and kept by some other person, and if deemed necessary by the treasurer, to name additional or multiple custodians for the same.

2. To file and keep, for not less than two (2) years, the certificates of the state controller delivered to him when moneys are paid into the treasury. After two (2) years, such records may be disposed of as provided in sections 9-328 through 9-330, Idaho Code, unless a specific written request for further retention has been made to the treasurer.

3. To deliver to each person paying money into the treasury a receipt showing the amount, the sources from which the money accrued, and the funds into which it is paid, which receipts must be numbered in order, beginning with number one (1) at the commencement of each fiscal year.

4. To pay warrants drawn by the state controller out of the accounting entity upon which they are drawn.

5. To invest idle moneys in the state treasury, ~~other than moneys in public endowment funds,~~ in permitted investments, and to pay the interest received on all such investments, unless otherwise specifically required by law, into the general account in the state operating fund.

6. To keep, for so long as the treasurer deems necessary, a record of all moneys received and disbursed.

7. To keep, for so long as the treasurer deems necessary, separate records of the different funds.

8. To report to the state controller daily, the amount disbursed for redemption of bonds and in payment of warrants; which report must show the date and number of such bonds and warrants, the fund out of which they were paid, and to report to the state controller monthly, the balance of cash on hand in the treasury to the credit of each fund.

9. At the request of either house of the legislature, or any committee thereof, to give information in writing as to the condition of the treasury, or upon any subject relating to the duties of his office.

10. To report to the governor at the time prescribed in this code, the exact balance in the treasury to the credit of the state, with a summary of the receipts and payments of the treasury during the preceding fiscal year.

11. To authenticate with his official seal all writings and papers issued from his office.

12. To discharge such other duties as may be imposed upon him by law.

SECTION 2. That Section 67-1202, Idaho Code, be, and the same is hereby amended to read as follows:

67-1202. FUNDS OF STATE BOARD OF LAND COMMISSIONERS. (1) It is the duty of the treasurer in relation to funds within the control of the state board of land commissioners to receive from and receipt to the board for money and evidences of indebtedness, subject, however, to final payment, which are accepted by banks as cash in the ordinary course of business, and to pay out of such funds orders drawn thereon by the board, but every order must specify the particular fund upon which it is drawn.

(2) The treasurer is authorized to invest endowment funds as directed by the endowment fund investment board, or as directed by the state board of land commissioners if not otherwise provided for by law. The costs of investing funds pursuant to this section shall be paid from the funds invested or the earnings on such funds. Any earnings on endowment funds shall be deposited and distributed in accordance with section 57-723A, Idaho Code.

(3) It is the duty of the treasurer to serve as the custodian of the public school endowment fund. The treasurer may request any records of the state board of land commissioners related to such fund and any financial records of a bank or trust company keeping custody of the assets of the public school permanent endowment fund pursuant to section 57-721, Idaho Code.

SECTION 3. That Section 67-1210, Idaho Code, be, and the same is hereby amended to read as follows:

67-1210. INVESTMENT OF IDLE MONEYS. It shall be the duty of the state treasurer to invest idle moneys in the state treasury, ~~other than moneys in public endowment funds,~~ in any of the following:

(a) Bonds, treasury bills, interest-bearing notes, or other obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) General obligation or revenue bonds of this state, or those for which the faith and credit of this state are pledged for the payment of principal and interest.

(c) General obligation or revenue bonds of any county, city, metropolitan water district, municipal utility district, school district or other taxing district of this state.

(d) Notes, bonds, debentures, or other similar obligations issued by the farm credit system or institutions forming a part thereof under the farm credit act of 1971, U.S.C., tit. 12, sections 2001-2259, and all acts of congress amendatory thereof or supplementary thereto; in bonds or debentures of the federal home loan bank board established under the federal home loan bank act, U.S.C., tit. 12, sections 1421-1449; in bonds, debentures and other obligations of the federal national mortgage association established under the national housing act, U.S.C., tit. 12, sections 1701-1750g, as amended, and in the bonds of any federal home loan bank established under said act and in other obligations issued or guaranteed by agencies or instrumentalities of the government of the state of Idaho or of the United States, including the United States small business administration guaranteed portion of any loan approved by an Idaho banking corporation and by the state treasurer.

(e) Bonds, notes or other similar obligations issued by public corporations of the state of Idaho including, but not limited to, the Idaho state building authority, the Idaho housing autherity and finance association and the Idaho water resource board.

(f) Repurchase agreements covered by any legal investment for the state of Idaho.

(g) Tax anticipation notes and registered warrants of the state of Idaho.

(h) Tax anticipation bonds or notes and income and revenue anticipation bonds or notes of taxing districts of the state of Idaho.

(i) Time deposit accounts and savings accounts in state depositories including, but not limited to, accounts on which interest or dividends are paid and upon which negotiable orders of withdrawal may be drawn, and similar transaction accounts.

(j) Time deposit accounts and savings accounts of state or federal savings and loan associations located within the geographical boundaries of the state in amounts not to exceed the insurance provided by the federal savings and loan deposit insurance corporation including, but not limited to, ac-

counts on which interest or dividends are paid and upon which negotiable orders of withdrawal may be drawn, and similar transaction accounts.

(k) Revenue bonds of institutions of higher education of the state of Idaho.

(l) Share, savings and deposit accounts of state and federal credit unions located within the geographical boundaries of the state in amounts not to exceed the insurance provided by the national credit union share insurance fund and/or any other authorized deposit guaranty corporation, including, but not limited to, accounts on which interest or dividends are paid and upon which negotiable orders of withdrawal may be drawn, and similar transaction accounts.

(m) Money market funds whose portfolios consist of any allowed investment as specified in this section. The securities held in money market portfolios must be dollar-denominated, meaning that all principal and interest payments on such a security are payable to security holders in United States dollars.

The term "idle moneys" means the balance of cash and other evidences of indebtedness which are accepted by banks as cash in the ordinary course of business, in demand deposit accounts, after taking into consideration all deposits and withdrawals, on a daily basis.

The interest received on all such investments, unless otherwise specifically required by law, shall be paid into the general account of the state of Idaho. Provided, unless otherwise specifically provided by statute, any interest earned on funds received by the state pursuant to a federal law, regulation, or federal-state agreement which governs disposition of interest earned upon such funds shall be accounted for separately to give effect to the federal law, regulation, or federal-state agreement.

If the interest is to be credited to a separate account, the state treasurer shall charge the account an investment administration fee. The amount of the fee shall be determined annually by the state treasurer and submitted to the board of examiners for approval as stipulated in section 67-3524, Idaho Code. The fee shall be expressed as an annual percentage of the average daily balance of the account, including separate investments, if any, of that account. The fee shall be charged monthly in an amount approximately one-twelfth (1/12) of the fee which would be payable on an annual basis. The amount of the investment administration fee shall constitute an appropriation from the account for which the investment administration services are rendered.

The state treasurer shall charge an investment administration fee to each such state fund or account, including the general account, which receives investment income from investments administered by the office of state treasurer. The investment administration fee shall be determined annually by the state treasurer and submitted to the board of examiners for approval, as stipulated in section 67-3524, Idaho Code. The fee shall be expressed as an annual percentage of the average daily balance of the fund or account, including separate investments, if any, of that fund or account. The fee shall be charged monthly in an amount approximately one-twelfth (1/12) of the fee which would be payable on an annual basis. The amount of the investment administration fee shall constitute an appropriation from the fund or account for which the investment administration services are rendered.

The term "to invest" means to use the idle moneys in the state treasury to buy, sell, including selling before maturity at either a gain or a loss, retain, or exchange any of the investments described in this section, considering the probable safety of the capital, the probable income to be derived, and the liquidity of the assets.

SECTION 4. That Chapter 12, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-1227, Idaho Code, and to read as follows:

67-1227. INVESTMENT AT REQUEST OF STATE AGENCY. At the request of an agency, the state treasurer is hereby authorized to accept for investment the funds of an Idaho agency or funds held in trust by an Idaho agency that are not idle moneys subject to investment under section 67-1210, Idaho Code. The state treasurer may invest the funds submitted for investment under this section in any investment the treasurer is authorized by law to acquire using the idle moneys of the state of Idaho. The state treasurer may pool funds submitted for investment under this section with funds invested by the state treasurer under any program authorized by this chapter. The treasurer may require the agency certify its authority to submit the funds for investment by the state treasurer and its authority to invest the funds in the investments authorized by this section. The costs of investing funds pursuant to this section shall be paid from the funds invested or the earnings on such funds or from a fund designated in advance by the agency.

SECTION 5. That Chapter 12, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-1228, Idaho Code, and to read as follows:

67-1228. TREASURER'S ADMINISTRATIVE FUND. (1) There is hereby created in the state treasury the treasurer's administrative fund to which shall be credited:

(a) Fees and charges collected pursuant to law to cover costs associated with services or administration provided by the treasurer and not paid by the general fund including, but not limited to, moneys paid to the treasurer pursuant to sections 33-5409, 67-1202, 67-1227 and 67-8729, Idaho Code; and

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

(2) Moneys in the fund shall be continuously appropriated to the treasurer and any moneys remaining in the fund at the end of each fiscal year shall not be appropriated to any other fund.

(3) Moneys in the fund shall only be used to pay costs associated with the services or administration provided by the treasurer pursuant to law and not paid by the general fund.

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 23, 2016

CHAPTER 168
(H.B. No. 481)

AN ACT

RELATING TO THE RIGHT TO TRY ACT; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 93, TITLE 39, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE INTENT, TO DEFINE TERMS, TO PROVIDE THAT A PATIENT MAY TRY AND A MANUFACTURER MAY PROVIDE AN INVESTIGATIONAL DRUG, BIOLOGICAL PRODUCT OR DEVICE UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE THAT COVERAGE OF COSTS ASSOCIATED WITH AN INVESTIGATIONAL DRUG, BIOLOGICAL PRODUCT OR DEVICE IS NOT REQUIRED OF CERTAIN ENTITIES AND TO PROVIDE THAT HOSPITALS OR FACILITIES ARE NOT REQUIRED TO OFFER CERTAIN SERVICES, TO PROVIDE THAT A PATIENT'S HEIRS ARE NOT RESPONSIBLE FOR CERTAIN DEBT, TO PROVIDE PROHIBITIONS, TO PROVIDE LIMITATIONS ON CAUSES OF ACTION AND TO PROVIDE THAT CERTAIN HEALTH CARE COVERAGE IS NOT AFFECTED BY THIS ACT.

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

SECTION 1. That Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 93, Title 39, Idaho Code, and to read as follows:

CHAPTER 93
RIGHT TO TRY ACT

39-9301. SHORT TITLE. This chapter shall be known and may be cited as the "Right to Try Act."

39-9302. LEGISLATIVE INTENT. It is the intent of the legislature to provide the opportunity for terminally ill patients to have access to certain investigational treatments without requiring another party, including a physician, manufacturer, insurer or government agency, to offer, provide or pay for such treatments. By enacting this chapter, the legislature intends only to permit these treatments to terminally ill patients in Idaho. It is not the intent of the legislature to create an obligation but to ensure that all persons or parties availing themselves of this chapter do so voluntarily. Due to the experimental nature of these treatments, it is further the intent of the legislature to protect physicians and other parties from civil, criminal or professional liability relating to the treatments.

39-9303. DEFINITIONS. As used in this chapter:

- (1) "Eligible patient" or "patient" means an individual who has a terminal illness and has:
 - (a) Considered all other treatment options currently approved by the United States food and drug administration;
 - (b) Received a recommendation from the patient's treating physician for an investigational drug, biological product or device for purposes related to the terminal illness;
 - (c) Given written, informed consent for the use of the recommended investigational drug, biological product or device; and
 - (d) Received documentation from the eligible patient's treating physician that the eligible patient meets the requirements of this subsection.
- (2) "Investigational drug, biological product or device" means a drug, biological product or device that has successfully completed phase 1 of a clinical trial but has not yet been approved for general use by the United

States food and drug administration and remains under investigation in a United States food and drug administration-approved clinical trial.

(3) "Terminal illness" means a progressive disease or medical or surgical condition that:

(a) Entails functional impairment that significantly impacts the patient's activities of daily living;

(b) Is not considered by a treating physician to be reversible even with administration of current United States food and drug administration-approved and available treatments; and

(c) Without life-sustaining procedures, will soon result in death.

(4) "Written, informed consent" means a written document that is signed by the eligible patient and, if the patient is a minor, a parent or legal guardian, which document is attested to by the patient's physician and a witness and that includes the following:

(a) An explanation of the currently approved products and treatments for the disease or condition from which the patient suffers;

(b) An attestation that the patient concurs with the patient's physician in believing that all currently approved and conventionally recognized treatments are unlikely to prolong the patient's life;

(c) Clear identification of the specific proposed investigational drug, biological product or device that the patient is seeking to use;

(d) A description of the potentially best and worst outcomes of using the investigational drug, biological product or device and a realistic description of the most likely outcome. The description shall include the possibility that new, unanticipated, different or worse symptoms might result and that death could be hastened by the proposed treatment. The description shall be based on the physician's knowledge of the proposed treatment in conjunction with an awareness of the patient's condition;

(e) A statement that the patient's health plan or third-party administrator and provider are not obligated to pay for any care or treatments consequent to the use of the investigational drug, biological product or device unless specifically required to do so by law or contract;

(f) A statement that the patient's eligibility for hospice care might be withdrawn if the patient begins curative treatment with the investigational drug, biological product or device and that care may be reinstated if the treatment ends and the patient meets hospice eligibility requirements; and

(g) A statement that the patient understands that the patient is responsible for all expenses consequent to the use of the investigational drug, biological product or device and that this liability extends to the patient's estate unless a contract between the patient and the manufacturer of the drug, biological product or device states otherwise.

39-9304. INVESTIGATIONAL DRUGS -- RIGHT TO TRY AND PROVIDE. (1) An eligible patient may request, and a manufacturer may make available to an eligible patient under the supervision of the patient's treating physician, the manufacturer's investigational drug, biological product or device, which drug, product or device shall be clearly labeled as investigational; provided however, that this chapter does not require that a manufacturer make available an investigational drug, biological product or device to an eligible patient.

(2) A manufacturer may:

(a) Provide an investigational drug, biological product or device to an eligible patient without receiving compensation; or

(b) Require an eligible patient to pay the costs associated with the manufacture of the investigational drug, biological product or device.

39-9305. NO COVERAGE OBLIGATION. (1) This chapter does not expand the coverage required of an insurer under the laws of this state.

(2) A health plan, third-party administrator or government agency may, but is not required to, provide coverage for the cost of an investigational drug, biological product or device or the cost of services related to the use of an investigational drug, biological product or device.

(3) This chapter does not require any health plan, third-party administrator or government agency to pay costs associated with the use of an investigational drug, biological product or device.

(4) This chapter does not require a hospital or facility licensed in this state to provide new or additional services unless such services are approved by the hospital or facility.

39-9306. HEIRS NOT LIABLE FOR TREATMENT DEBT. If a patient dies while being treated by an investigational drug, biological product or device under the terms of this chapter, the patient's heirs are not liable for any outstanding debt related to the treatment or lack of insurance due to the treatment.

39-9307. PROHIBITIONS. (1) A licensing board or disciplinary body of this state shall not revoke, fail to renew, suspend or take any action against a health care provider's license based solely on the provider's recommendations to an eligible patient regarding access to or treatment with an investigational drug, biological product or device as allowed under this act.

(2) An entity responsible for medicare certification shall not take action against a health care provider's medicare certification based solely on the health care provider's recommendation that a patient have access to an investigational drug, biological product or device as allowed under this act.

(3) An official, employee or agent of this state shall not block or attempt to block an eligible patient's access to an investigational drug, biological product or device as allowed under this act.

39-9308. LIMITATIONS. (1) This chapter does not create a private cause of action against a manufacturer of an investigational drug, biological product or device or against a physician or any other person or entity involved in the care of an eligible patient using an investigational drug, biological product or device for any harm done to the eligible patient resulting from the investigational drug, biological product or device, provided that the manufacturer, physician, or person or entity has exercised reasonable care and complied in good faith with the terms of this chapter.

(2) This chapter does not create a private cause of action against a treating physician who refuses to recommend an investigational drug, biological product or device to a patient with a terminal illness.

39-9309. MANDATORY COVERAGE NOT AFFECTED. This chapter does not affect any mandatory health care coverage for participation in clinical trials provided elsewhere by law.

Approved March 23, 2016

CHAPTER 169
(H.B. No. 486)

AN ACT

RELATING TO BARBER COLLEGES; AMENDING SECTION 54-507, IDAHO CODE, TO PROVIDE ADDITIONAL REQUIREMENTS REGARDING CERTAIN SCHOOLS AND COLLEGES AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 54-507, Idaho Code, be, and the same is hereby amended to read as follows:

54-507. APPROVED BARBER COLLEGES -- REQUIREMENTS -- BOND. (1) No school teaching the art or science of barbering shall operate in Idaho or be licensed as a school of barbering, unless the entrance requirements are equal to those which are required under section 54-506, Idaho Code. An approved college may teach special courses, but as a prerequisite to graduation the college must provide:

(a) A course of instruction for barber-stylists of not less than one thousand eight hundred (1,800) hours and include in its course of instruction the Idaho barber law and board rules and the scientific fundamentals for barbering: hygiene; bacteriology; histology of the hair, skin, nails, muscles and nerves; structure of the head, face and neck; elementary chemistry relating to sterilization and antiseptics; diseases of the skin, hair, glands and nails; massaging and manipulating the muscles of the upper body; ~~hair-cutting~~ haircutting; shaving; and arranging, dressing, curling, waving, straightening, coloring, bleaching and tinting of the hair; and

(b) A course of instruction for barbers of not less than nine hundred (900) hours and include in its course of instruction the Idaho barber law and board rules and the scientific fundamentals for barbering: hygiene; bacteriology; histology of the hair, skin, nails, muscles and nerves; structure of the head, face and neck; elementary chemistry relating to sterilization and antiseptics; diseases of the skin, hair, glands and nails; massaging and manipulating the muscles of the upper body; ~~hair-cutting~~ haircutting; shaving; and arranging and dressing of the hair.

(2) For the purpose of this chapter, a recognized approved barber school or college (hereinafter referred to as a college) shall be understood to be a college that has met the provisions of this chapter as approved by the board.

(3) No college in the state shall advertise or use any signs or terms to indicate that the college is approved, recognized, accredited, certified, or licensed unless said college is licensed by the board. Every college shall advertise as a college and make known to the public and customers that the work is being done by students.

(4) All instructors in an approved college must be licensed in the state of Idaho as a barber instructor or a cosmetology instructor.

(5) Every instructor in an Idaho licensed college shall devote his or her entire time during class hours to that of instructing the students and shall not apply his time to that of private or public practice during the school or class hours.

(6) A college furnishing satisfactory evidence that it is maintaining the requirements set forth in this chapter, within the state, shall, upon the payment of the required fee, be issued a license by the board.

(7) A license issued to a college must be renewed annually. Should a college fail or refuse to renew a license, said college shall cease to operate and be removed from the list of the approved colleges.

(8) The board may cancel or refuse to renew a license issued to a college upon proof that said college has failed or refused to meet with the requirements for approved colleges set forth in this chapter.

(9) One (1) instructor must be employed to each twenty (20) students or fractional part thereof and one (1) barber instructor must be employed on a full-time basis in each school or college.

(10) Every school or college licensed by the board shall deliver to the board a bond to the state of Idaho in the sum of twenty thousand dollars (\$20,000) in a form approved by the board and provide a copy of the bond annually together with the application for school license renewal. The bond shall be executed by a corporate surety company duly authorized to do business in this state, conditioned that such school or college shall continue to give its courses of instruction, in accordance with the provisions of this chapter, until it has completed all such courses for which students have enrolled, and conditioned that such school or college shall fully comply with all promises or representations made to enrolled students as an inducement to such students to enroll. Any student so enrolled who may be damaged by reason of the failure of such school or college to comply with such conditions shall have a right of action in his or her own name, on such bonds, for such damage.

(11) A school or college is a postsecondary school. A school or college must be licensed by name by the state board of barber examiners. A school or college may admit as regular students only those individuals who:

- (a) Have two (2) years of high school or an equivalent education as determined by the board; and
- (b) Are at least sixteen and one-half (16 1/2) years of age.

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 23, 2016

CHAPTER 170

(H.B. No. 491, As Amended)

AN ACT

RELATING TO NONCONSENSUAL COMMON LAW LIENS; REPEALING CHAPTER 17, TITLE 45, IDAHO CODE, RELATING TO NONCONSENSUAL COMMON LAW LIENS; AND AMENDING CHAPTER 8, TITLE 45, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 45-811, IDAHO CODE, TO DEFINE A TERM, TO PROHIBIT NONCONSENSUAL COMMON LAW LIENS AND TO PROVIDE AN EXEMPTION FROM PENALTIES OR LIABILITY FOR CERTAIN PERSONS, TO PROVIDE THAT A PROPERTY OWNER MAY PETITION FOR RELEASE AND FILE A COMPLAINT FOR PENALTIES AND TO ESTABLISH PROCEDURES AND FEES FOR SUCH PETITION OR COMPLAINT, AND TO PROVIDE PENALTIES.

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

SECTION 1. That Chapter 17, Title 45, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 8, Title 45, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 45-811, Idaho Code, and to read as follows:

45-811. NONCONSENSUAL COMMON LAW LIENS PROHIBITED. (1) For purposes of this section, "nonconsensual common law lien" means a lien that:

- (a) Is not provided for by a specific state or federal statute;
- (b) Does not depend upon the consent of the owner of the property affected for its existence;
- (c) Is not a court-imposed equitable, judgment or constructive lien; and
- (d) Is not of a kind commonly used in legitimate commercial transactions.

(2) Nonconsensual common law liens are hereby prohibited. The state of Idaho shall not recognize or enforce nonconsensual common law liens. Provided however, that if a county clerk or other recording officer accepts for filing or recording a claim of a nonconsensual common law lien, the clerk or officer shall not be penalized or be liable for such filing or recording.

(3) Petition to release and complaint for penalties.

(a) A person whose real or personal property is subject to a recorded claim of a nonconsensual common law lien may at any time petition the district court of the county in which the claim has been recorded for an order releasing the claim. The petition, which may be heard ex parte, shall be heard as soon as practicable by the court. If it appears from the content of the lien that the lien is a nonconsensual common law lien, the court shall issue an order to the lienor to appear at a date not sooner than fifteen (15) days after the order is made, nor later than thirty (30) days, at which time the lienor must show cause why the claim of lien should not be released. If the lienor does not appear or if the showing of cause is insufficient, the court shall issue an order releasing the claim of lien. If good cause is shown by the lienor that the lien is not a nonconsensual common law lien and has a valid basis, the matter shall be set for further proceedings to determine the validity of the lien.

(b) A complaint for penalties and other relief awarded pursuant to subsection (4) of this section may be filed separately or in conjunction with a petition filed under paragraph (a) of this subsection, but such complaint may not be filed any later than ninety (90) days after the hearing on the court's order to show cause as provided in paragraph (a) of this subsection.

(c) The filing fee for a petition filed pursuant to paragraph (a) of this subsection shall be thirty-five dollars (\$35.00). The filing fee for a complaint filed pursuant to paragraph (b) of this subsection shall be prescribed by court rule.

(4) Penalties.

(a) Any person who files or records in the office of a county clerk or recorder, or with the secretary of state, any document attempting to create a nonconsensual common law lien against real or personal property, and who has refused or failed to withdraw such document upon written request by the owner of the property, shall be liable to the owner for the sum of not less than five thousand dollars (\$5,000) or for actual damage caused thereby, whichever is greater, together with any court costs and reasonable attorney's fees.

(b) Any lienor or other person claiming interest in property under a recorded nonconsensual common law lien against real or personal property who has refused or failed to record a release or disclaimer of interest in such property upon written request by the owner of the property shall be liable to the owner for the damages, court costs and attorney's fees provided in paragraph (a) of this subsection.

CHAPTER 171
(H.B. No. 496)

AN ACT

RELATING TO CEMETERIES; AMENDING TITLE 27, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 3, TITLE 27, IDAHO CODE, TO PROVIDE FOR CITY COUNCIL OR CEMETERY MAINTENANCE DISTRICT BOARD PROCEDURES REGARDING UNUSED LOTS, TO PROVIDE FOR RIGHTS OF LOT HOLDERS AND COMPENSATION, TO PROVIDE FOR PROCEEDS OF RESALE OF LOTS OR PARCELS, AND TO PROVIDE THAT ADDITIONAL RESTRICTIONS ARE NOT PROHIBITED.

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

SECTION 1. That Title 27, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 3, Title 27, Idaho Code, and to read as follows:

CHAPTER 3
RIGHTS AND TITLE TO CEMETERY LOTS

27-301. COUNCIL OR BOARD PROCEDURES. (1) A city council or cemetery maintenance district board may pass a resolution requesting that the owner, or his or her heir or assign, of a lot, site or portion of the cemetery that has been unused for burial purposes for more than fifty (50) years, file with the city clerk with respect to a city cemetery, or the secretary with respect to a cemetery maintenance district, a written statement of continuing claim or interest in the lot, site or portion of the cemetery, if not otherwise limited by the express terms of the rights of burial accorded by the cemetery owner.

(2) The city council or cemetery maintenance district board shall then cause a copy of the resolution to be personally served on the owner, if possible, by delivering a copy of the resolution to the individual personally or by leaving copies thereof at the individual's dwelling house or usual place of abode with some person over the age of eighteen (18) years then residing therein. The resolution shall notify the owner that the owner shall, within sixty (60) days after service of the resolution on the owner, express his or her interest in maintaining the cemetery lot, site or portion of the cemetery by filing with the city clerk with respect to a city cemetery, or the secretary with respect to a cemetery maintenance district, a written statement of his or her continuing claim or interest in the lot, site or portion of the cemetery.

(3) If it is determined that the owner is deceased, the requirement to personally serve the owner may be met by mailing a copy of the resolution to all known or reasonably ascertainable heirs of the owner. A search for heirs shall include an inquiry into the next succeeding owner(s) of a decedent's real property and a basic online search for information about the heirs of the deceased owner.

(4) If the owner cannot be personally served with the resolution of the city council or cemetery maintenance district board as required in subsection (2) of this section, the city council or cemetery maintenance district board shall publish its resolution for three (3) successive weeks in a newspaper of general circulation within the county and shall mail a copy of the resolution within fourteen (14) days after the publication to the owner's last known address, if available.

(5) If the owner or one (1) of his or her heirs or assigns shall, in response to said resolution, submit a written statement of continuing interest in the lot, site or portion of the cemetery for burial purposes, the city or cemetery maintenance district shall reissue to said person a new conveyance

document evidencing his or her interest in said lot, site or portion of the cemetery for burial purposes, in accordance with its usual practices. If more than one (1) heir or assign shall state competing claims in the lot, site or portion of the cemetery in question, the city or cemetery maintenance district shall so notify all such competing heirs or assigns, but shall have no authority to adjudicate the relative merits of said claims or interests. If, within ten (10) years from the date of said notification, the competing heirs or assigns shall not have agreed upon a resolution of their various interests or adjudicated the same, the city or cemetery maintenance district may require from each a renewed written statement of each such heir's or assign's continuing claim or interest in the lot, site or portion of the cemetery, by complying with the provisions of this section. The city or cemetery maintenance district may repeat this process every ten (10) years, as necessary, until such time as ownership of the lot is vested in an individual. Alternatively, when facing competing claims among heirs, the cemetery operator may file an interpleader in a court of competent jurisdiction to determine the rights of all claiming an ownership interest in the cemetery lots in question.

(6) If, for sixty (60) days after the last date of service, mailing and/or publication of the city council's or cemetery maintenance district board's resolution, the owner, or his or her heir or assign, of the cemetery lot fails to state an interest in the cemetery lot, site or portion of the cemetery for burial purposes, the owner's rights, or the rights of his or her heirs and/or assigns, are terminated, and that portion of the cemetery shall be vested in the city or cemetery maintenance district.

27-302. RIGHTS OF LOT HOLDERS -- COMPENSATION. (1) The owner, or his or her heir or assign, shall have the right, on presentation of the certificate of title or right to burial to the city or cemetery maintenance district, to conveyance of any lot or parcel that has reverted to the city or cemetery maintenance district, if the lot or parcel has not been resold. If such lot or parcel has been resold, said owner, or his or her heir or assign, shall have the right, at the option of the city or cemetery maintenance district, to:

- (a) Receive a right to burial in another lot or parcel; or
- (b) Be compensated for the lot or parcel at the reasonable value of the lot or parcel as of the date the certificate is presented to the city or cemetery maintenance district.

27-303. PROCEEDS OF RESALE OF LOTS OR PARCELS. The proceeds from the subsequent resale of any lot or parcel, title to which has been revested in the city or cemetery maintenance district under this chapter, less the costs and expenses incurred in the proceeding, shall become part of the permanent care and improvement fund of the city or cemetery maintenance district, subject to subsequent disposition in accordance with Idaho law.

27-304. ADDITIONAL RESTRICTIONS NOT PROHIBITED. Nothing in this chapter shall prevent cities or cemetery maintenance districts from imposing additional terms on the sale or conveyance of rights to burial, nor from the insertion of reversionary clauses into a certificate of title or right to burial for periods of inactivity of less than fifty (50) years.

Approved March 23, 2016

CHAPTER 172
(H.B. No. 499)

AN ACT

RELATING TO FOOD; AMENDING CHAPTER 1, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-113, IDAHO CODE, TO PROVIDE THAT THE IDAHO STATE DEPARTMENT OF AGRICULTURE SHALL BE THE DELEGATED AUTHORITY TO REGULATE CERTAIN ACTIVITIES IF SPECIFIED CONDITIONS ARE MET AND TO CLARIFY REGULATORY AUTHORITY; AND AMENDING SECTION 39-1602, IDAHO CODE, TO PROVIDE AN EXCEPTION TO A DEFINITION AND TO CLARIFY REGULATORY AUTHORITY.

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

SECTION 1. That Chapter 1, 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 22-113, Idaho Code, and to read as follows:

22-113. FOOD SAFETY MODERNIZATION ACT. The Idaho state department of agriculture shall be the delegated state authority for regulation of any nonretail activities subject to the United States food and drug administration food safety modernization act, in the event the legislature enacts legislation directing that the state should seek federal authorization of such regulation, provided such nonretail activity is subject to registration under section 415 of the federal food, drug and cosmetic act . Prior to the department of agriculture engaging in the regulation of any activities pursuant to the provisions of this section, the department of agriculture, in consultation and cooperation with the department of health and welfare, shall conduct negotiated rulemaking to provide for the implementation of such regulation. Processors conducting nonretail activities and not subject to registration under section 415 of the federal food, drug and cosmetic act, shall not be subject to regulation by the Idaho state department of agriculture pursuant to the provisions of this section.

SECTION 2. That Section 39-1602, Idaho Code, be, and the same is hereby amended to read as follows:

39-1602. DEFINITIONS. As used in this chapter:

(1) "Commissary" means a place where food, containers or supplies are stored, prepared or packaged for transit, sale or service at other locations.

(2) "Food establishment" means those operations in the food business such as, but not limited to, food processing establishments, canning factories, salvage processing facilities, food service establishments, cold storage plants, commissaries, warehouses, food vending machine operations and location, caterers, mobile food units and retail food stores. Such operations include all activities under the control of the license holder including preparation, processing, storage, service, transportation vehicles, satellite locations, divisions and departments, and remote feeding sites. The term includes operations which are conducted in permanent, temporary or mobile facilities or locations. It includes any food operation regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. Individual divisions and departments on one (1) premises and under common ownership shall as a whole be considered a single food establishment. The term "food establishment" does not include:

(a) Private homes where food is prepared or served for individual family consumption;

(b) Fraternal, benevolent or nonprofit charitable organizations which do not prepare or serve food on a regular basis. Food shall not be considered to be served on a regular basis if the food is served for a period not to exceed five (5) consecutive days on no more than three (3) occasions per year for foods which are not potentially hazardous, or if the food is served no more than one (1) meal a week for all other foods;

(c) Bed and breakfast establishments with ten (10) or fewer beds;

(d) Establishments which offer only factory-sealed foods that are not potentially hazardous;

(e) Any nonretail activity subject to regulation pursuant to the United States food and drug administration food safety modernization act, provided that such nonretail activity is subject to registration under section 415 of the federal food, drug and cosmetic act. Such activities shall be subject to regulation by the Idaho state department of agriculture pursuant to the provisions of section 22-113, Idaho Code, in the event the state enacts legislation providing that it should seek federal authorization of such regulation;

(f) Agricultural markets; and

(fg) Agricultural equipment used for the extraction or harvest of an agricultural product including, but not limited to, mint stills.

(3) "Intermittent food establishment" means a food vendor that operates for a period of time, not to exceed three (3) days per week, at a single, specified location in conjunction with a recurring event and that offers potentially hazardous food to the general public. Examples of a recurring event may be a farmers' or community market or a holiday market. "Intermittent food establishment" does not include the vendor of farm fresh ungraded eggs at a recurring event.

(4) "Mobile food establishment" means a food establishment selling or serving food for human consumption from any vehicle or other temporary or itinerant station and includes any movable food service establishment, truck, van, trailer, pushcart, bicycle, watercraft or other movable food service with or without wheels, including hand-carried, portable containers in or on which food or beverage is transported, stored or prepared for retail sale or given away at temporary locations.

(5) "Potentially hazardous food" means any food or ingredient, natural or synthetic, in a form capable of supporting the rapid and progressive growth of infectious or toxigenic microorganisms or the slower growth of clostridium botulinum. Included is any food of animal origin, either raw or heat treated and any food of plant origin which has been heat treated or which is raw seed sprouts; cut melons; and garlic and oil mixtures. The term "potentially hazardous food" does not include:

(a) Air-dried hard-boiled eggs with shells intact;

(b) Foods with a water activity (aw) value of eighty-five hundredths (0.85) or less;

(c) Foods with a pH (hydrogen ion concentration) level of four and six-tenths (4.6) or below when measured at seventy-five (75) degrees Fahrenheit;

(d) Foods in unopened hermetically-sealed containers which have been commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution;

(e) Foods for which laboratory evidence, acceptable to the regulatory authority, demonstrates that rapid and progressive growth of infectious and toxigenic microorganisms or the slower growth of clostridium botulinum cannot occur;

(f) Milk, half-and-half cream, butter products, frozen dairy desserts and other fluid milk products, in the original unopened container; and

(g) Any other food items determined by the department of health and welfare not to be potentially hazardous.

(6) "Regulatory authority" means the director of the Idaho department of health and welfare or the director's designee.

(7) "Temporary food establishment" means a food establishment that operates for a period of not more than fourteen (14) consecutive days in conjunction with a single event or celebration.

Approved March 23, 2016

CHAPTER 173
(H.B. No. 500)

AN ACT

RELATING TO MEDICARE PROVIDER PAYMENT; AMENDING SECTION 56-265, IDAHO CODE, TO PROVIDE THAT REIMBURSEMENT FOR CERTAIN SERVICES SHALL BE NINETY-ONE PERCENT OF THE CURRENT MEDICARE RATE.

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

SECTION 1. That Section 56-265, Idaho Code, be, and the same is hereby amended to read as follows:

56-265. PROVIDER PAYMENT. (1) Where there is an equivalent, the payment to medicaid providers:

(a) May be up to but shall not exceed one hundred percent (100%) of the current medicare rate for primary care procedure codes as defined by the centers for medicare and medicaid services; and

(b) Shall be ninety percent (90%) of the current medicare rate for all other procedure codes.

(2) Where there is no medicare equivalent, the payment rate to medicaid providers shall be prescribed by rule.

(3) Notwithstanding any other provision of this chapter, if the services are provided to an adolescent by a private, freestanding mental health facility that is an institution for mental disease, the department shall reimburse for those services at ~~twenty-seven~~ ninety-one percent (2791%) of the current medicare rate.

(4) The department shall, through the annual budget process, include a line item request for adjustments to provider rates. All changes to provider payment rates shall be subject to approval of the legislature by appropriation.

Approved March 23, 2016

CHAPTER 174
(H.B. No. 519)

AN ACT

RELATING TO MASSAGE THERAPY; AMENDING SECTION 54-4002, IDAHO CODE, TO PROVIDE AN EXCEPTION FROM THE DEFINITION OF "COMPENSATION"; AMENDING SECTION 54-4007, IDAHO CODE, TO AUTHORIZE THE BOARD OF MASSAGE THERAPY TO ESTABLISH REQUIREMENTS FOR A STUDENT TUITION CREDIT PROGRAM, TO ESTABLISH REQUIREMENTS FOR A TEMPORARY LICENSE AND PROVISIONAL PERMIT AND TO MAKE A TECHNICAL CORRECTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 54-4002, Idaho Code, be, and the same is hereby amended to read as follows:

54-4002. DEFINITIONS. As used in this chapter, the following terms have the following meanings:

(1) "Advertise" means, but is not limited to, the issuing or causing to be distributed of any card, sign, direct mail piece or other device or causing or permitting any sign or marking on or in any building or structure, or in any newspaper, magazine or directory, or announcement on radio or announcement or display on television, computer network or electronic or telephonic medium.

(2) "Board" means the Idaho state board of massage therapy created pursuant to section 54-4006, Idaho Code.

(3) "Compensation" means the payment, loan, advance, donation, contribution, deposit or gift of money or anything of value, except "compensation" shall not include a student tuition credit program where such program has been established by a massage therapy establishment.

(4) "Massage school" means a massage therapy educational program that is registered by the state board of education in accordance with chapter 24, title 33, Idaho Code, or comparable authority in another state.

(5) "Massage therapist" means a person who is licensed under this chapter and who engages in the practice of massage therapy.

(6) "Massage therapy" means the care and services provided by a massage therapist.

(7) "Practice of massage therapy" means the application of a system of structured touch, pressure, movement and holding of the soft tissues of the human body. The application may include:

(a) Pressure, friction, stroking, rocking, kneading, percussion, or passive or active stretching within the normal anatomical range of movement;

(b) Complementary methods, including the external application of water, heat, cold, lubricants and other topical preparations; or

(c) The use of mechanical devices that mimic or enhance actions that may be done by the hands.

SECTION 2. That Section 54-4007, Idaho Code, be, and the same is hereby amended to read as follows:

54-4007. POWERS AND DUTIES OF THE BOARD. The board shall have the authority to:

(1) Determine the qualifications of persons applying for licensure pursuant to this chapter and to define, by rule, the appropriate scope of massage therapy in this state, provided however, that the scope of practice may not exceed that defined in section 54-4002 (7), Idaho Code;

(2) Authorize, by written agreement, the bureau of occupational licenses as agent to act in its interest;

(3) Promulgate such rules as are necessary for the administration of this chapter, including standards of professional conduct;

(4) Conduct investigations and hold hearings and compel the attendance of witnesses and the production of papers at such investigations or hearings;

(5) Collect fees and other funds as prescribed by this chapter;

(6) Contract and pursue other matters lawful in this state relating to massage therapy;

(7) Provide such other services and perform such other functions as are necessary and desirable to fulfill its purposes;

(8) Establish requirements for renewal of license and approval of continuing education courses as set forth in section 67-2614, Idaho Code; and

(9) Establish rules for the approval of massage therapy entry-level educational standards but must remain consistent with curriculum requirements in this chapter, or rules promulgated pursuant thereto;

(10) Establish requirements for a student tuition credit program; and

(11) Establish requirements for a temporary license and provisional permit.

The registration of massage schools shall remain with the state board of education in accordance with chapter 24, title 33, Idaho Code.

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

Approved March 23, 2016

CHAPTER 175
(H.B. No. 528)

AN ACT

RELATING TO THE TESTING OF SEXUAL ASSAULT EVIDENCE KITS; PROVIDING LEGISLATIVE INTENT; AND AMENDING CHAPTER 29, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2919, IDAHO CODE, TO PROVIDE THAT THE IDAHO STATE POLICE FORENSIC SERVICES LABORATORY SHALL TEST SEXUAL ASSAULT EVIDENCE KITS, TO PROVIDE DUTIES FOR HEALTH CARE FACILITIES, TO PROVIDE DUTIES FOR LOCAL LAW ENFORCEMENT, TO PROVIDE PROCEDURES FOR THE LABORATORY FOR TESTING KITS, TO PROVIDE FOR RETENTION OF KITS, TO PROVIDE FOR INDEPENDENT REVIEW OF KITS IN CERTAIN INSTANCES, TO PROVIDE RULE-MAKING AUTHORITY, TO PROVIDE THAT IDAHO STATE POLICE FORENSIC SERVICES SHALL PROVIDE KITS TO CERTAIN PARTIES, TO PROVIDE REPORTING AND AUDITING REQUIREMENTS FOR UNTESTED KITS, TO PROVIDE FOR VICTIM NOTIFICATION, TO PROVIDE FOR REPORTING REQUIREMENTS AND TO DEFINE A TERM.

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

SECTION 1. LEGISLATIVE INTENT. The Legislature finds that DNA evidence is a powerful law enforcement tool that can identify unknown suspects, connect crimes together and exonerate the innocent. It is the intent of the Legislature that sexual assault evidence kits are tested in a timely manner to advance public safety.

SECTION 2. That Chapter 29, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-2919, Idaho Code, and to read as follows:

67-2919. TESTING OF SEXUAL ASSAULT EVIDENCE KITS. (1) Unless an adult victim of a reported sexual assault expressly indicates otherwise and except as provided in subsection (6) of this section, evidence obtained in a sexual assault evidence kit shall be tested by the Idaho state police forensic services laboratory according to sampling protocols and procedures established by the laboratory.

(2) A health care facility that has performed a medical examination of a victim of a reported sexual assault using a sexual assault evidence kit shall notify the local law enforcement agency of the jurisdiction where the reported sexual assault occurred that sexual assault evidence has been collected and is ready for law enforcement to take custody of such evidence according to their established protocol.

(3) A local law enforcement agency that receives notice from a health care facility as described in subsection (2) of this section shall facilitate the collection of the sexual assault evidence kit and any other collected evidence from the health care facility. After obtaining the sexual assault evidence kit and any other collected evidence from the health care

facility, the local law enforcement agency shall submit such kit, in adherence to the submission policies of the Idaho state police forensic services laboratory, to the Idaho state police forensic services laboratory for testing as soon as reasonably practical, but not later than thirty (30) days after obtaining the kit. If kit submission to the Idaho state police forensic services laboratory is not done within the thirty (30) day time limit or testing is not done by the Idaho state police forensic services within the ninety (90) day additional time limit established in this subsection, it shall not affect the ability to prosecute or defeat the jurisdiction of the court. Any law enforcement agency with sexual assault evidence kits or other sexual assault case evidence belonging to another jurisdiction must notify that jurisdiction within seven (7) days of obtaining the kits or evidence, and the receiving jurisdiction must pick up the sexual assault evidence kits or other sexual assault case evidence within seven (7) days.

(4) For all sexual assault evidence kits received pursuant to subsection (3) of this section, the Idaho state police forensic services laboratory shall test such kits and submit eligible results to the Idaho DNA database within ninety (90) days. The laboratory shall report any kits not processed within ninety (90) days to the county prosecutor with jurisdiction in the case and to the Idaho legislature.

(5) Following analysis by the Idaho state police forensic services laboratory, sexual assault evidence kits shall be returned to and retained by the investigating agency in accordance with agency evidence standards following a reported sexual assault or for the period of time that any person remains incarcerated in connection with the offense, whichever is greater.

(6) All sexual assault evidence kits collected in this state shall be processed by the Idaho state police forensic services laboratory except when there is no evidence to support a crime being committed, when it is no longer being investigated as a crime or when an adult victim expressly indicates that no further forensic examination or testing occur pursuant to subsection (1) of this section. Any sexual assault evidence kit that is not examined and tested shall be independently reviewed by the county prosecutor. In the event such review concludes that the kit should have been tested, testing shall occur as provided in subsections (3) and (4) of this section.

(7) The Idaho state police shall promulgate rules to create a tracking process for sexual assault evidence kits in possession of the Idaho state police forensic services laboratory and every law enforcement agency throughout the state. Such rules shall provide for the information to be submitted to the Idaho state police by law enforcement agencies to assist in such tracking.

(8) Idaho state police forensic services shall approve and provide, at no cost to the victim, appropriate sexual assault evidence kits to requesting health care facilities and law enforcement agencies. All such kits shall contain a form for victims to inform them of their right of notification pursuant to subsections (10) and (11) of this section and of their right to decline to have a kit collected or tested pursuant to subsection (1) of this section.

(9) Within one hundred eighty (180) days of the effective date of this act, the Idaho state police forensic services laboratory shall provide a one-time report to the legislature of all untested sexual assault evidence kits in Idaho. To assist with this one-time report, all law enforcement agencies in Idaho shall perform a one-time audit of any untested sexual assault evidence kits in their possession and submit to the Idaho state police forensic services director the following:

- (a) The number of untested kits in the law enforcement agency's possession;
- (b) The date each kit was collected and the reason it was not submitted to Idaho state police forensic services for testing; and

(c) The number of any anonymous or unreported kits in the law enforcement agency's possession.

Law enforcement agencies shall follow the same protocol to perform the audit of untested sexual assault evidence kits as they would with any new kit submitted to the agency. The audit performed by a law enforcement agency shall be reviewed by a law enforcement representative and the county prosecutor before the final report is provided to the legislature.

(10) A law enforcement agency that submits a sexual assault evidence kit pursuant to subsection (3) of this section shall upon written request notify a victim of sexual assault, a parent or guardian if the victim is a minor at the time of notification, or a relative if the victim is deceased, of the following:

(a) When the sexual assault evidence kit is submitted to the Idaho state police forensic services laboratory;

(b) When any evidence sample DNA profile is entered into the Idaho DNA database; and

(c) When a DNA match occurs; provided however, that such notification shall state only that a match has occurred and shall not contain any genetic or other identifying information.

(11) The county prosecutor, or their designee, shall upon written request notify a victim of sexual assault, a parent or guardian if the victim is a minor at the time of notification, or a relative if the victim is deceased, of the following:

(a) When there is any planned destruction of a sexual assault evidence kit or any other sexual assault case evidence; and

(b) When there is any change in the status of their case or reopening of the case.

(12) On or before January 20, 2017, and by January 20 of each year thereafter, Idaho state police forensic services shall submit a report to the Idaho legislature regarding its examination of sexual assault evidence kits throughout the state in the previous year. The report shall include, but not be limited to, the number of kits purchased and distributed by Idaho state police forensic services, the number of kits collected by each law enforcement agency, the number of kits tested by the Idaho state police forensic services laboratory, the number of kits not submitted to the Idaho state police forensic services laboratory pursuant to subsection (1) or (6) of this section, the number of DNA database hits from sexual assault cases, a list of any law enforcement agencies that did not adhere to the tracking process promulgated pursuant to subsection (7) of this section, and for the report submitted in 2017, a list of any law enforcement agencies that did not participate in the audit required in subsection (9) of this section. This report shall be available on the website of the Idaho state police and readily available to the public. No victim or alleged perpetrator names shall be included in the report. Information shall be provided in aggregate and shall not include case-specific information.

(13) As used in this section, "sexual assault evidence kit" means a set of materials, such as swabs and tools for collecting blood samples, used to gather forensic evidence from a victim of reported sexual assault and the evidence obtained with such materials.

Approved March 23, 2016

CHAPTER 176
(S.B. No. 1402)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 2017; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; APPROPRIATING AND TRANSFERRING MONEYS FROM THE REVOLVING DEVELOPMENT FUND TO THE AQUIFER PLANNING AND MANAGEMENT FUND; TRANSFERRING MONEYS FROM THE ECONOMIC RECOVERY RESERVE FUND TO THE SECONDARY AQUIFER PLANNING, MANAGEMENT AND IMPLEMENTATION FUND; TRANSFERRING MONEYS FROM THE GENERAL FUND TO THE SECONDARY AQUIFER PLANNING, MANAGEMENT AND IMPLEMENTATION FUND; TRANSFERRING MONEYS FROM THE GENERAL FUND TO THE MISCELLANEOUS REVENUE FUND FOR DEPOSIT TO THE PRIEST LAKE OUTLET SUBACCOUNT; AND PROVIDING LEGISLATIVE INTENT.

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, 2016, through June 30, 2017:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
I. MANAGEMENT AND SUPPORT SERVICES:						
FROM:						
General						
Fund	\$914,200	\$772,400	\$105,200			\$1,791,800
Indirect Cost Recovery						
Fund	494,000	150,200				44,200
Water Administration						
Fund	51,500	21,700				73,200
Miscellaneous Revenue						
Fund	<u>0</u>	<u>155,800</u>	<u>0</u>			<u>155,800</u>
TOTAL	\$1,459,700	\$1,100,100	\$105,200			\$2,665,000
II. PLANNING AND TECHNICAL SERVICES:						
FROM:						
General						
Fund	\$2,519,400	\$637,000	\$40,000	\$582,000	\$5,000,000	\$8,778,400
Indirect Cost Recovery						
Fund		12,500				12,500
Aquifer Planning and Management						
Fund	852,800	423,500				1,276,300
Economic Recovery Reserve						
Fund					2,500,000	2,500,000
Miscellaneous Revenue						
Fund		164,500				164,500

	FOR	FOR	FOR	FOR	FOR	
	PERSONNEL	OPERATING	CAPITAL	TRUSTEE AND	BENEFIT	LUMP
	COSTS	EXPENDITURES	OUTLAY	PAYMENTS		SUM
						TOTAL
Federal Grant						
Fund	<u>552,000</u>	<u>809,500</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1,361,500</u>
TOTAL	\$3,924,200	\$2,047,000	\$40,000	\$582,000	\$7,500,000	\$14,093,200
III. WATER MANAGEMENT:						
FROM:						
General						
Fund	\$5,023,500	\$1,963,900	\$462,400			\$7,449,800
Indirect Cost Recovery						
Fund		4,800				4,800
Water Administration						
Fund	1,235,500	228,200				1,463,700
Miscellaneous Revenue						
Fund	852,100	282,400				1,134,500
Federal Grant						
Fund	<u>582,400</u>	<u>334,400</u>	<u>0</u>			<u>916,800</u>
TOTAL	\$7,693,500	\$2,813,700	\$462,400			\$10,969,600
IV. NORTHERN IDAHO ADJUDICATION:						
FROM:						
General						
Fund	\$341,500	\$168,900				\$510,400
Northern Idaho Adjudication						
Fund	<u>0</u>	<u>36,100</u>				<u>36,100</u>
TOTAL	\$341,500	\$205,000				\$546,500
GRAND TOTAL	\$13,418,900	\$6,165,800	\$607,600	\$582,000	\$7,500,000	\$28,274,300

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-five (155) full-time equivalent positions at any point during the period July 1, 2016, through June 30, 2017, 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, 2016, or as soon thereafter as practicable, for the period July 1, 2016, through June 30, 2017.

SECTION 4. Of the amount appropriated to the Department of Water Resources in Section 1 of this act for the Planning and Technical Services Program from the Economic Recovery Reserve Fund for lump sum, the State Controller shall transfer \$2,500,000 to the Secondary Aquifer Planning, Management and Implementation Fund, on July 1, 2016, or as soon thereafter as practicable, for the period July 1, 2016, through June 30, 2017.

SECTION 5. Of the amount appropriated to the Department of Water Resources in Section 1 of this act for the Planning and Technical Services Program from the General Fund for lump sum, the State Controller shall transfer \$5,000,000 to the Secondary Aquifer Planning, Management and Implementation Fund, on July 1, 2016, or as soon thereafter as practicable, for the period July 1, 2016, through June 30, 2017.

SECTION 6. There is hereby appropriated to the Department of Water Resources and the State Controller shall transfer \$100,400 from the General Fund to the Miscellaneous Revenue Fund, on July 1, 2016, or as soon thereafter as practicable, for the period July 1, 2016, through June 30, 2017. Such moneys shall be credited to the Priest Lake Outlet Subaccount.

SECTION 7. LEGISLATIVE INTENT. It is the intent of the Legislature that the Idaho Water Resource Board sell the Pristine Springs property for the appraised value and that the proceeds be deposited to the General Fund.

Approved March 24, 2016

CHAPTER 177
(S.B. No. 1394)

AN ACT

APPROPRIATING MONEYS TO THE COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED FOR FISCAL YEAR 2017; 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, 2016, through June 30, 2017:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$790,600	\$65,700	\$599,200	\$1,455,500
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	20,400	47,900		68,300
Federal Grant				
Fund	<u>2,020,000</u>	<u>619,800</u>	<u>541,500</u>	<u>3,181,300</u>
TOTAL	\$2,831,000	\$823,400	\$1,310,100	\$4,964,500

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, 2016, through June 30, 2017, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 24, 2016

CHAPTER 178
(S.B. No. 1392)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO COMMISSION FOR LIBRARIES FOR FISCAL YEAR 2017; 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, 2016, through June 30, 2017:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$1,984,800	\$1,524,300	\$113,200	\$200,000	\$3,822,300
Miscellaneous Revenue					
Fund		55,000	5,000	10,000	70,000
Federal Grant					
Fund	<u>631,500</u>	<u>916,500</u>	<u>25,000</u>	<u>60,000</u>	<u>1,633,000</u>
TOTAL	\$2,616,300	\$2,495,800	\$143,200	\$270,000	\$5,525,300

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, 2016, through June 30, 2017, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 24, 2016

CHAPTER 179
(S.B. No. 1391)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR MEDICAID FOR FISCAL YEAR 2017; 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, 2016, through June 30, 2017:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MEDICAID ADMINISTRATION AND MEDICAL MGMT:				
FROM:				
Cooperative Welfare (General)				
Fund	\$6,121,900	\$7,576,500	\$424,100	\$14,122,500
Cooperative Welfare (Dedicated)				
Fund		8,883,800		8,883,800
Cooperative Welfare (Federal)				
Fund	<u>9,596,000</u>	<u>37,606,000</u>	<u>1,503,100</u>	<u>48,705,100</u>
TOTAL	\$15,717,900	\$54,066,300	\$1,927,200	\$71,711,400
II. COORDINATED MEDICAID PLAN:				
FROM:				
Cooperative Welfare (General)				
Fund			\$161,720,600	\$161,720,600
Hospital Assessment				
Fund			16,863,100	16,863,100
Cooperative Welfare (Dedicated)				
Fund			6,399,000	6,399,000
Cooperative Welfare (Federal)				
Fund			<u>371,248,900</u>	<u>371,248,900</u>
TOTAL			\$556,231,600	\$556,231,600

	FOR	FOR	FOR	
	PERSONNEL	OPERATING	TRUSTEE AND	
	COSTS	EXPENDITURES	BENEFIT	TOTAL
			PAYMENTS	
III. ENHANCED MEDICAID PLAN:				
FROM:				
Cooperative Welfare (General)				
Fund			\$177,946,600	\$177,946,600
Hospital Assessment				
Fund			1,682,400	1,682,400
Cooperative Welfare (Dedicated)				
Fund			246,852,000	246,852,000
Cooperative Welfare (Federal)				
Fund			<u>504,719,800</u>	<u>504,719,800</u>
TOTAL			\$931,200,800	\$931,200,800
IV. BASIC MEDICAID PLAN:				
FROM:				
Cooperative Welfare (General)				
Fund			\$165,817,500	\$165,817,500
Hospital Assessment				
Fund			11,454,500	11,454,500
Cooperative Welfare (Dedicated)				
Fund			11,010,000	11,010,000
Cooperative Welfare (Federal)				
Fund			<u>486,378,700</u>	<u>486,378,700</u>
TOTAL			\$674,660,700	\$674,660,700
GRAND TOTAL	\$15,717,900	\$54,066,300	\$2,164,020,300	\$2,233,804,500

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than two hundred nine (209) full-time equivalent positions for the Medicaid Administration and Medical Management Program at any point during the period July 1, 2016, through June 30, 2017, 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 2017.

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. 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 2017.

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, 2016, and the second report shall be submitted no later than June 30, 2017.

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 24, 2016

CHAPTER 180
(S.B. No. 1390)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO STATE POLICE FOR FISCAL YEAR 2017; 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, 2016, through June 30, 2017:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. BRAND INSPECTION:					
FROM:					
State Brand Board					
Fund	\$2,439,900	\$384,900	\$99,500		\$2,924,300
II. DIRECTOR'S OFFICE:					
FROM:					
General					
Fund	\$2,021,100	\$188,200	\$9,100		\$2,218,400
Alcohol Beverage Control					
Fund		2,300			2,300
Idaho Law Enforcement					
Fund	127,100	37,900			165,000
Idaho Law Enforcement (Project Choice)					
Fund	124,600	2,400			127,000
Peace Officers Training					
Fund		5,700			5,700
Drug & DWUI Enforcement Donation					
Fund		19,200			19,200
Idaho Law Enforcement Telecommunications					
Fund		800			800
Miscellaneous Revenue					
Fund		80,100			80,100
Federal Grant					
Fund	<u>64,200</u>	<u>23,100</u>	<u>0</u>		<u>87,300</u>
TOTAL	\$2,337,000	\$359,700	\$9,100		\$2,705,800
III. EXECUTIVE PROTECTION:					
FROM:					
General					
Fund	\$337,100	\$64,000			\$401,100
Idaho Law Enforcement (Project Choice)					
Fund	61,300	800			62,100
Miscellaneous Revenue					
Fund	<u>102,200</u>	<u>6,200</u>			<u>108,400</u>
TOTAL	\$500,600	\$71,000			\$571,600
IV. INVESTIGATIONS:					
FROM:					
General					
Fund	\$6,350,000	\$837,100	\$323,300		\$7,510,400
Economic Recovery Reserve					
Fund		14,200	37,200		51,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Idaho Law Enforcement (Project Choice)					
Fund	935,500	9,800			945,300
Drug & DWUI Enforcement Donation					
Fund	208,700	503,400			712,100
Federal Grant					
Fund	<u>163,900</u>	<u>562,300</u>	<u>74,000</u>	<u>\$110,000</u>	<u>910,200</u>
TOTAL	\$7,658,100	\$1,926,800	\$434,500	\$110,000	\$10,129,400

V. PATROL:

FROM:

General

Fund	\$5,765,700	\$1,839,500	\$1,456,800		\$9,062,000
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Economic Recovery Reserve

Fund		294,200	467,900		762,100
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Idaho Law Enforcement

Fund	15,551,500	2,397,300	71,700		18,020,500
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Idaho Law Enforcement (Project Choice)

Fund	3,304,500	39,200			3,343,700
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Hazardous Materials/Waste Enforcement

Fund	433,000	72,300	21,000	\$67,800	594,100
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Miscellaneous Revenue

Fund	185,300	29,400			214,700
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Federal Grant

Fund	<u>3,039,100</u>	<u>1,162,300</u>	<u>221,000</u>	<u>2,607,600</u>	<u>7,030,000</u>
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TOTAL	\$28,279,100	\$5,834,200	\$2,238,400	\$2,675,400	\$39,027,100
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VI. LAW ENFORCEMENT PROGRAMS:

FROM:

General

Fund	\$312,400	\$261,400			\$573,800
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Alcohol Beverage Control

Fund	1,058,700	393,700	\$39,400		1,491,800
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Idaho Law Enforcement (Project Choice)

Fund	171,600	1,900			173,500
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Miscellaneous Revenue

Fund	<u>0</u>	<u>12,600</u>	<u>0</u>		<u>12,600</u>
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TOTAL	\$1,542,700	\$669,600	\$39,400		\$2,251,700
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	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
VII. SUPPORT SERVICES:					
FROM:					
General					
Fund	\$1,724,500	\$1,132,600	\$297,100		\$3,154,200
Idaho Law Enforcement					
Fund	110,400	100			110,500
Idaho Law Enforcement (Project Choice)					
Fund	107,600	2,900			110,500
Idaho Law Enforcement Telecommunications					
Fund	606,800	793,800	252,800		1,653,400
Miscellaneous Revenue					
Fund	1,186,500	1,276,300	1,404,900		3,867,700
Federal Grant					
Fund	<u>0</u>	<u>35,800</u>	<u>0</u>		<u>35,800</u>
TOTAL	\$3,735,800	\$3,241,500	\$1,954,800		\$8,932,100
VIII. FORENSIC SERVICES:					
FROM:					
General					
Fund	\$3,479,000	\$567,300	\$164,000		\$4,210,300
Economic Recovery Reserve					
Fund		36,000	10,300		46,300
Idaho Law Enforcement (Project Choice)					
Fund	316,700	7,200			323,900
Drug & DWUI Enforcement Donation					
Fund		412,500			412,500
Miscellaneous Revenue					
Fund	83,900	130,400			214,300
Federal Grant					
Fund	<u>125,100</u>	<u>286,900</u>	<u>0</u>		<u>412,000</u>
TOTAL	\$4,004,700	\$1,440,300	\$174,300		\$5,619,300
IX. PEACE OFFICER STANDARDS AND TRAINING ACADEMY:					
FROM:					
Idaho Law Enforcement (Project Choice)					
Fund	\$94,000	\$2,300			\$96,300
Peace Officers Training					
Fund	2,248,800	1,885,200	\$40,200	\$105,900	4,280,100
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	\$2,379,000	\$2,137,700	\$40,200	\$105,900	\$4,662,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
X. RACING COMMISSION:					
FROM:					
Idaho State Racing Commission					
Fund	\$432,400	\$163,100			\$595,500
Parimutuel Distributions					
Fund	<u>0</u>	<u>0</u>		<u>\$30,000</u>	<u>30,000</u>
TOTAL	\$432,400	\$163,100		\$30,000	\$625,500
GRAND TOTAL	\$53,309,300	\$16,228,800	\$4,990,200	\$2,921,300	\$77,449,600

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Idaho State Police is authorized no more than five hundred seventy-two and eighty-five hundredths (572.85) full-time equivalent positions at any point during the period July 1, 2016, through June 30, 2017, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 24, 2016

CHAPTER 181
(S.B. No. 1356)

AN ACT

RELATING TO ALCOHOL BEVERAGE CATERING PERMITS; AMENDING SECTION 23-1337, IDAHO CODE, TO PROVIDE THAT TWO OR MORE WINERIES MAY USE A WINERY'S LICENSED PREMISES TO HOST AN EVENT UNDER AN ALCOHOL BEVERAGE CATERING PERMIT TO SERVE AND SELL THEIR RESPECTIVE WINES AT THAT EVENT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 23-1337, Idaho Code, be, and the same is hereby amended to read as follows:

23-1337. ALCOHOL BEVERAGE CATERING PERMIT. Any person who is the holder of an Idaho winery license shall be eligible to obtain an alcohol beverage catering permit. Two (2) or more wineries may use a winery's licensed premises to host an event under an alcohol beverage catering permit to serve and sell their respective wines at that event.

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, 2016

CHAPTER 182
(S.B. No. 1334)

AN ACT

RELATING TO EDUCATION; REPEALING SECTION 67-5745D, IDAHO CODE, RELATING TO THE IDAHO EDUCATION NETWORK; REPEALING SECTION 67-5745E, IDAHO CODE, RELATING TO THE IDAHO EDUCATION NETWORK PROGRAM AND RESOURCE ADVISORY COUNCIL (IPRAC); AMENDING TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 56, TITLE 33, IDAHO CODE, TO PROVIDE THE EDUCATION OPPORTUNITY RESOURCE ACT, TO PROVIDE A SHORT TITLE, TO PROVIDE PURPOSE, FINDINGS AND LEGISLATIVE INTENT, TO DEFINE TERMS, TO PROVIDE THE EDUCATION OPPORTUNITY RESOURCE COMMITTEE, TO PROVIDE SUCH COMMITTEE'S MEMBERS AND MEETING REQUIREMENTS AND POWERS AND DUTIES, TO PROVIDE DUTIES OF THE STATE DEPARTMENT OF EDUCATION AND TO PROVIDE RULEMAKING AUTHORITY TO THE STATE BOARD OF EDUCATION; AMENDING SECTION 33-125, IDAHO CODE, TO REMOVE A REFERENCE TO THE IDAHO EDUCATION NETWORK; AND AMENDING SECTION 33-125A, IDAHO CODE, TO REMOVE REFERENCE TO THE IDAHO EDUCATION NETWORK AND TO THE IPRAC.

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

SECTION 1. That Section 67-5745D, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 67-5745E, Idaho Code, be, and the same is hereby repealed.

SECTION 3. 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 56, Title 33, Idaho Code, and to read as follows:

CHAPTER 56
EDUCATION OPPORTUNITY RESOURCE ACT

33-5601. SHORT TITLE. This chapter shall be known and may be cited as the "Education Opportunity Resource Act."

33-5602. PURPOSE, FINDINGS AND LEGISLATIVE INTENT -- DEFINITIONS. (1) The purpose of this act is to establish a resource for Idaho's education and library system in providing broadband and related services to students. The legislature finds that Idaho benefits from a consistent and adequate bandwidth connection to its schools, inclusive of grades K through 12, and to its libraries. It is the intent of the legislature that:

(a) State resources be made available to support Idaho's E-rate eligible entities with technical, E-rate, security, contracting and procurement guidance, and funding distribution;

(b) E-rate eligible entities shall have the ability to collaborate regionally and intrastate for broadband and related services; and

(c) E-rate eligible entities apply for and pursue, in good faith, E-rate funding.

(2) As used in this chapter:

(a) "E-rate" means the schools and libraries program of the universal service fund that is administered by the universal service administrative company under the direction of the federal communications commission.

(b) "E-rate eligible entities" means Idaho public schools grades K through 12, the Idaho digital learning academy, the Idaho department of

juvenile corrections education programs, the school for the deaf and the blind and the Idaho public libraries.

33-5603. EDUCATION OPPORTUNITY RESOURCE COMMITTEE -- MEMBERS AND MEETINGS. (1) There is hereby established in the state department of education the education opportunity resource committee. The committee shall consist of the following eight (8) members:

- (a) One (1) member shall be the state superintendent of public instruction or the superintendent's designee;
- (b) One (1) member shall be appointed by the state board of education;
- (c) Three (3) members shall be appointed by the Idaho association of school administrators as follows:
 - (i) One (1) member who is a superintendent from a school district with fewer than one thousand (1,000) students enrolled, or the superintendent's designee;
 - (ii) One (1) member who is a superintendent from a school district with between one thousand (1,000) and four thousand nine hundred ninety-nine (4,999) students enrolled, or the superintendent's designee; and
 - (iii) One (1) member who is a superintendent from a school district with five thousand (5,000) or more students enrolled, or the superintendent's designee;
- (d) One (1) member shall be the state librarian or the state librarian's designee; and
- (e) Two (2) members shall be school technology personnel appointed by the Idaho education technology association.

(2) The committee shall elect a chairperson and a vice chairperson who shall each hold such position for two (2) year terms and who may be reelected. Members of the committee shall serve four (4) year terms. Vacancies shall be filled by the relevant appointing authority for the remaining term.

(3) The committee shall meet at least once quarterly until July 1, 2018, after which date the committee shall meet at least once annually.

(4) All meetings of the committee shall be held in accordance with the state open meetings law set forth in chapter 2, title 74, Idaho Code.

33-5604. EDUCATION OPPORTUNITY RESOURCE COMMITTEE -- POWERS AND DUTIES. In carrying out its powers and duties set forth in this section, the education opportunity resource committee shall focus on the broadband and related services needs of all E-rate eligible entities. At a minimum, the committee shall:

- (1) Make budget and policy recommendations to the state department of education regarding:
 - (a) Broadband parameters;
 - (b) Incentives for E-rate eligible entities to obtain the most appropriate service that best fits such entities' broadband needs and that is fiscally responsible; and
 - (c) The minimum and maximum service levels, the quality of services and the minimum per student or person internet level that contracts must adhere to for E-rate eligible entities to be eligible for state reimbursement;
- (2) Establish reimbursement methodology that includes, but is not necessarily limited to, the following components:
 - (a) Distribution of appropriated moneys to E-rate eligible entities that have received E-rate funding. Distribution of such moneys must be in an amount equal to the non-E-rate reimbursed cost of internet services; and
 - (b) If E-rate funding is not available to an E-rate eligible entity, reimburse the entity for its internet service costs;

(3) Compile and analyze broadband utilization statistics from E-rate eligible entities to determine the levels of internet services necessary for such entities and report the statistics to the state department of education, and E-rate eligible entities shall cooperate with the committee in carrying out its duty to compile and analyze such information;

(4) Advise and recommend resources to assist the state department of education in carrying out its responsibility to provide E-rate application assistance and support to E-rate eligible entities;

(5) Not provide legal advice;

(6) Collaborate with other relevant governmental and nongovernmental entities to ensure best practices in broadband are used and to recommend the terms of contracts for broadband and related services; and

(7) Ensure compliance with appropriate purchasing laws.

33-5605. EDUCATION OPPORTUNITY RESOURCE ACT -- STATE DEPARTMENT OF EDUCATION DUTIES -- RULEMAKING. (1) The state department of education shall:

(a) Distribute appropriated moneys to E-rate eligible entities for reimbursement for the cost of internet service in accordance with the methodology established by the education opportunity resource committee;

(b) Authorize funding increases for internet service levels when an E-rate eligible entity consistently exceeds utilization benchmarks established by the education opportunity resource committee during school or business days and hours, provided adequate funding is available; and

(c) Provide technical, E-rate, security, contracting and procurement guidance and assistance to E-rate eligible entities at any such entity's request.

(2) The state board of education may promulgate rules in compliance with chapter 52, title 67, Idaho Code, to implement the provisions of this chapter. In promulgating such rules, the board shall collaborate with the education opportunity resource committee.

SECTION 4. That Section 33-125, Idaho Code, be, and the same is hereby amended to read as follows:

33-125. STATE DEPARTMENT OF EDUCATION -- CREATION -- DUTIES. There is hereby established as an executive agency of the state board of education a department known as the state department of education. The state superintendent shall serve as the executive officer of such department and shall have the responsibility for carrying out policies, procedures and duties authorized by law or established by the state board of education for all elementary and secondary school matters, and to administer grants for the promotion of science education as provided in sections 33-128 and 33-129, Idaho Code. ~~The department shall perform the duties assigned to it as specified in section 67-5745D, Idaho Code, relating to the Idaho education network.~~

SECTION 5. That Section 33-125A, Idaho Code, be, and the same is hereby amended to read as follows:

33-125A. ~~IDAHO EDUCATION NETWORK~~ -- DUTIES OF THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION AND THE STATE DEPARTMENT OF EDUCATION. Under the direction of the state superintendent of public instruction, the state department of education shall:

(1) Coordinate with the Idaho digital learning academy as provided for in chapter 55, title 33, Idaho Code, the state board of education and school districts to distribute telecourses, teleconferences and other instructional and training services to and between public schools;

(2) Coordinate with the Idaho digital learning academy, the state board of education and institutions of higher education to distribute college credit telecourses, teleconferences and other instructional and training services; and

(3) Act as a clearinghouse for the materials, courses, publications and other applicable information related to the requirements of this section;

~~(4) Coordinate all e-rate funding applications for Idaho's school districts and implement e-rate funds through the department of administration for related services provided under the purview of the Idaho education network (IEN); and~~

~~(5) Appoint four (4) representatives to the Idaho education network program and resource advisory council (IPRAC) pursuant to the provisions of section 67-5745E, Idaho Code.~~

Approved March 24, 2016

CHAPTER 183
(S.B. No. 1333)

AN ACT

RELATING TO EDUCATION; AMENDING CHAPTER 9, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-910, IDAHO CODE, TO PROVIDE THE BROADBAND INFRASTRUCTURE IMPROVEMENT GRANT FUND AND RELATED PROVISIONS, TO REQUIRE RULEMAKING AND TO DEFINE A TERM; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 9, 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 33-910, Idaho Code, and to read as follows:

33-910. BROADBAND INFRASTRUCTURE IMPROVEMENT GRANT FUND -- RULEMAKING -- DEFINITIONS. (1) There is hereby created in the state treasury a fund to be known as the broadband infrastructure improvement grant fund. The fund shall consist of moneys made available through legislative transfers or appropriations, and from any other governmental source. Interest earned from the investment of moneys in the fund shall be retained in the fund. Subject to appropriation, moneys in the fund shall be expended by the state department of education to invest in special construction projects for high-speed broadband connections to E-rate eligible entities that receive E-rate funding.

(2) The state department of education shall create and make available a grant application form for moneys in the fund. The state department may determine eligibility qualifications and applicant priority. Any E-rate eligible entity may apply to the state department for a grant from the fund for up to ten percent (10%) of the cost of an eligible special construction project. In order to receive moneys from the fund, the contract for such construction project must contain a provision that the constructing provider of the project will make any dark fiber laid pursuant to the contract available for use by any other provider.

(3) The state board of education shall promulgate rules to implement the provisions of this section. Such rules shall be consistent with the federal communications commission's second E-rate modernization order that provides for additional category one funding up to ten percent (10%) to match state funding for special construction charges for high-speed broadband connections.

(4) For the purposes of this section, "E-rate eligible entity" means Idaho public schools grades K through 12, the Idaho digital learning academy, the Idaho department of juvenile corrections education programs, the school for the deaf and blind and the Idaho public libraries.

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, 2016

CHAPTER 184
(S.B. No. 1330)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-520, IDAHO CODE, TO PROVIDE THAT THE BOARD OF TRUSTEES OF EACH SCHOOL DISTRICT SHALL ADOPT A CERTAIN POLICY, TO FURTHER DEFINE TERMS, AND TO ALLOW CERTAIN STUDENTS TO POSSESS AND USE CERTAIN MEDICATIONS AND SUPPLIES.

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

SECTION 1. That Section 33-520, Idaho Code, be, and the same is hereby amended to read as follows:

33-520. POLICY GOVERNING MEDICAL INHALERS OR, EPINEPHRINE AUTO-INJECTORS, INSULIN AND BLOOD GLUCOSE MONITORING SUPPLIES. (1) The board of trustees of each school district, including charter districts, shall adopt a policy ~~by September 1, 2008,~~ permitting the self-administration of medication administered by way of a metered-dose inhaler by a pupil for asthma or other potentially life-threatening respiratory illness or by way of an epinephrine auto-injector for severe allergic reaction (anaphylaxis). On or before September 1, 2016, such boards of trustees shall also adopt a policy permitting the self-administration of diabetes medication and blood glucose monitoring by a pupil with diabetes.

(2) As used in this section:

(a) "Medication" means an epinephrine auto-injector, a metered-dose inhaler or a dry powder inhaler or insulin prescribed by a physician and having an individual label; and

(b) "Self-administration" means a student's use of medication or of blood glucose monitoring supplies pursuant to prescription or written direction from a physician.

(3) A student who is permitted to self-administer medication or blood glucose monitoring pursuant to this section shall be permitted to possess and use a prescribed inhaler ~~or,~~ an epinephrine auto-injector, insulin or blood glucose monitoring supplies at all times.

(4) Nothing in this section shall be construed to prevent a school district from requiring pupils to maintain current duplicate prescription medications or blood glucose monitoring supplies with the school nurse or, in the absence of such nurse, with the school administrator.

Approved March 24, 2016

CHAPTER 185
(S.B. No. 1234)

AN ACT

RELATING TO THE IDAHO ADMINISTRATIVE PROCEDURE ACT; AMENDING SECTION 67-5205, IDAHO CODE, TO REMOVE REFERENCE TO CERTAIN ELECTRONIC COPIES.

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

SECTION 1. That Section 67-5205, Idaho Code, be, and the same is hereby amended to read as follows:

67-5205. FORMAT -- COSTS -- DISTRIBUTION -- FUNDS. (1) The administrative code and the permanent supplements thereto shall be published in such a manner that every agency has an opportunity to procure at reasonable cost from the coordinator, individual electronic copies of the rules and statements of policy of such agency published by authority of this chapter. No administrative rule or statement of policy published in the administrative code or the permanent supplements shall be reset or otherwise reprinted at public expense upon a format distinct from that of the administrative code without a certification by the coordinator that such special format is necessary for the effective performance by the agency of its functions.

(2) The prices to be charged for individual electronic copies of and subscriptions to the administrative code, the permanent supplements thereto and the bulletin, and for rules and statements of policy, which prices may be fixed without reference to the restrictions placed upon and fixed for the sale of other publications of the state, ~~and the number of electronic copies which shall be distributed free for official use, in addition to those free copies required to be as provided in this section,~~ shall be set by rules promulgated by the coordinator. The coordinator may set prices without reference to the restrictions placed upon the sale of other publications of the state. ~~Free electronic copies shall be distributed by the coordinator, as follows:~~

- ~~(a) One (1) to each county clerk for the use of the county law library.~~
- ~~(b) One (1) each to the senate and the house of representatives.~~
- ~~(c) One (1) to the attorney general.~~
- ~~(d) One (1) to the legislative services office.~~
- ~~(e) One (1) each to the state universities and colleges, and one (1) to each community college.~~
- ~~(f) One (1) to the state law library.~~
- ~~(g) One (1) to the commission for libraries.~~
- ~~(h) One (1) each to the following state depository libraries: Boise Public Library, East Bonner County Library, Idaho Falls Public Library, Lewiston City Library, Pocatello Library, The College of Idaho Library, Brigham Young University-Idaho Library and Twin Falls Public Library.~~

~~(3) In addition to those free electronic copies required to be distributed by this section, t~~The coordinator shall provide to the legislature free electronic copies of all rules subject to review by the legislature pursuant to section 67-5291, Idaho Code, and may distribute other free electronic copies for official use.

~~(34)~~ Without limiting the generality of the provisions of subsection (2) of this section, the rules of the coordinator may provide for volume discounts to be available to established law book publishers who agree to incorporate fully administrative rules, the permanent supplements thereto and the bulletin into their general scheme of promotion and distribution, and may provide for the free reciprocal exchange of publications between this state and other states and foreign jurisdictions. The provisions of this

section include the authority to exchange, display, access and publish texts through electronic media.

(45) There is hereby created in the state treasury the administrative code fund. All moneys received from the production of rules, the sale of the administrative code, the permanent supplements thereto, or the bulletin, and for providing electronic access, shall be deposited in the fund. All agencies which have any material published electronically in the bulletin, administrative code or supplements thereto, or newspapers, are hereby authorized and directed to pay out of their appropriations to the coordinator their respective shares of the costs of such publication and distribution of such material. All moneys placed in the fund may be appropriated to the coordinator for the administration of the provisions of this chapter, and for the publication and distribution of the bulletin, administrative code or supplements thereto, as authorized in this chapter.

The coordinator shall charge an annual fee to each participating agency for each page published electronically in the administrative code not to exceed fifty-six dollars (\$56.00) per page. In addition, the coordinator shall charge a fee to each participating agency for each page published electronically in the bulletin not to exceed sixty-one dollars (\$61.00) per page. A fee per page may be charged even though less than a full page of publication is required, and each participating agency shall promptly pay into the administrative code fund such charge.

Approved March 24, 2016

CHAPTER 186
(H.B. No. 526)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1002, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE CALCULATION OF THE EDUCATIONAL SUPPORT PROGRAM, TO MAKE CODIFIER'S CORRECTIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-1002, IDAHO CODE, AS AMENDED BY SECTION 2, CHAPTER 229, LAWS OF 2015, TO REVISE PROVISIONS REGARDING THE CALCULATION OF THE EDUCATIONAL SUPPORT PROGRAM, TO MAKE CODIFIER'S CORRECTIONS AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 33-1614, IDAHO CODE, RELATING TO READING ASSESSMENT; REPEALING SECTION 33-1615, IDAHO CODE, RELATING TO THE EXTENDED YEAR READING INTERVENTION PROGRAM; AMENDING CHAPTER 16, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1615, IDAHO CODE, TO PROVIDE FOR A READING ASSESSMENT AND RELATED PROVISIONS; REPEALING SECTION 33-1616, IDAHO CODE, RELATING TO EVALUATIONS AND INTERVENTIONS; AMENDING CHAPTER 16, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1616, IDAHO CODE, TO PROVIDE FOR LITERACY INTERVENTION AND RELATED PROVISIONS AND TO REQUIRE RULEMAKING; AND PROVIDING AN EFFECTIVE DATE.

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

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

33-1002. EDUCATIONAL SUPPORT PROGRAM. The educational support program is calculated as follows:

(1) State Educational Support Funds. Add the state appropriation, including the moneys available in the public school income fund, together with all miscellaneous revenues to determine the total state funds.

(2) From the total state funds subtract the following amounts needed for state support of special programs provided by a school district:

- (a) Pupil tuition-equivalency allowances as provided in section 33-1002B, Idaho Code;
- (b) Transportation support program as provided in section 33-1006, Idaho Code;
- (c) Feasibility studies allowance as provided in section 33-1007A, Idaho Code;
- (d) The approved costs for border district allowance, provided in section 33-1403, Idaho Code, as determined by the state superintendent of public instruction;
- (e) The approved costs for exceptional child approved contract allowance, provided in subsection 2. of section 33-2004, Idaho Code, as determined by the state superintendent of public instruction;
- (f) Certain expectant and delivered mothers allowance as provided in section 33-2006, Idaho Code;
- (g) Salary-based apportionment calculated as provided in sections 33-1004 through 33-1004F, Idaho Code;
- (h) Unemployment insurance benefit payments according to the provisions of section 72-1349A, Idaho Code;
- (i) For expenditure as provided by the public school technology program;
- (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 33-4602, Idaho Code;
- (o) For the "8 in 6 program" as provided for in section 33-4603, 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 three hundred dollars (\$300) per support unit;
- (s) An amount specified in the appropriation bill for the public schools educational support program for counseling support as provided for in section 33-1212A, Idaho Code, shall be distributed, in full or pro rata, based on one hundred twenty dollars (\$120) per first reporting period support unit for grades 8 through 12 or ten thousand dollars (\$10,000), whichever is greater; and
- (t) An amount specified in the public schools educational support program appropriation bill for literacy intervention pursuant to section 33-1616, Idaho Code, the disbursements made to the school districts and public charter schools in the aggregate shall not exceed the total amount appropriated for this purpose and shall be based on the actual costs of such intervention programs. School districts and public charter schools shall be reimbursed in full or in pro rata based on the average number of students in kindergarten through grade 3 who score basic or below basic on the fall statewide reading assessment in the prior three (3) years;
- (u) Any additional amounts as required by statute to effect administrative adjustments or as specifically required by the provisions of any bill of appropriation For mastery-based education as provided for in section 33-1630, Idaho Code; and

~~(tv) For mastery-based education as provided for in section 33-1630, Idaho Code 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 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 SUPPORT UNITS

(Computation of alternative school support units shall include grades 6 through 12)

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 fewer 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 school in a school district reporting less fewer than one hundred (100) secondary students in average daily attendance shall not be assigned to the alternative table if the student is from a school district reporting less fewer 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 school, unless the alternative school in question serves students from multiple districts reporting less fewer than one hundred (100) secondary students in average daily attendance. The tables for exceptional education and alternative school 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 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, subparagraph (i) of this paragraph, and the support units allowance for the approved exceptional child program, subparagraph (ii) of this 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, paragraph (b) of this subsection.

(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 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.

SECTION 2. That Section 33-1002, Idaho Code, as amended by Section 2, Chapter 229, Laws of 2015, 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 33-4602, Idaho Code;

(o) For the "8 in 6 program" as provided for in section 33-4603, 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 master teacher premiums as provided in section 33-1004I, Idaho Code;

(rs) For the support of provisions that provide a safe environment conducive to student learning and maintain classroom discipline, an allocation of three hundred dollars (\$300) per support unit;

(st) An amount specified in the appropriation bill for the public schools educational support program for counseling support as provided for in section 33-1212A, Idaho Code, shall be distributed, in full or pro rata, based on one hundred twenty dollars (\$120) per first reporting period support unit for grades 8 through 12 or ten thousand dollars (\$10,000), whichever is greater; and

(u) An amount specified in the public schools educational support program appropriation bill for literacy intervention pursuant to section 33-1616, Idaho Code, the disbursements made to the school districts and public charter schools in the aggregate shall not exceed the total amount appropriated for this purpose and shall be based on the actual costs of such intervention programs. School districts and public charter schools shall be reimbursed in full or in pro rata based on the average number of students in kindergarten through grade 3 who score basic or below basic on the fall statewide reading assessment in the prior three (3) years;

~~(tv) Any additional amounts as required by statute to effect administrative adjustments or as specifically required by the provisions of any bill of appropriation For mastery-based education as provided for in section 33-1630, Idaho Code; and~~

~~(tw) For mastery-based education as provided for in section 33-1630, Idaho Code 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 support units. The sum of all of the total support units of all school districts of the state shall be the total state support units.

COMPUTATION OF KINDERGARTEN SUPPORT UNITS

Average Daily

Attendance	Attendance Divisor	Units Allowed
41 or more....	40.....	1 or more as computed
31 - 40.99 ADA....	-.....	1
26 - 30.99 ADA....	-.....	.85
21 - 25.99 ADA....	-.....	.75
16 - 20.99 ADA....	-.....	.6
8 - 15.99 ADA....	-.....	.5
1 - 7.99 ADA....	-.....	count as elementary

COMPUTATION OF ELEMENTARY SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
300 or more ADA.....	..23...grades 4,5 & 6....	.. 15
	..22...grades 1,2 & 3....1994-95	
	..21...grades 1,2 & 3....1995-96	
	..20...grades 1,2 & 3....1996-97 and each year thereafter.	
160 to 299.99 ADA...	20	8.4
110 to 159.99 ADA...	19	6.8
71.1 to 109.99 ADA...	16	4.7
51.7 to 71.0 ADA...	15	4.0
33.6 to 51.6 ADA...	13	2.8
16.6 to 33.5 ADA...	12	1.4
1.0 to 16.5 ADA...	n/a	1.0

COMPUTATION OF SECONDARY SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
750 or more....	18.5	47
400 - 749.99 ADA....	16	28
300 - 399.99 ADA....	14.5	22
200 - 299.99 ADA....	13.5	17
100 - 199.99 ADA....	12	9
99.99 or fewer	Units allowed as follows:	
Grades 7-12	.....	8
Grades 9-12	.....	6
Grades 7- 9	.....	1 per 14 ADA
Grades 7- 8	.....	1 per 16 ADA

COMPUTATION OF EXCEPTIONAL EDUCATION SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
14 or more....	14.5	1 or more as computed
12 - 13.99....	-	1
8 - 11.99....	- .....	.75
4 - 7.99....	- .....	.5
1 - 3.99....	- .....	.25

COMPUTATION OF ALTERNATIVE SCHOOL SUPPORT UNITS
(Computation of alternative school support units shall include
grades 6 through 12)

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 fewer 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 school in a school district reporting less fewer than one hundred (100) secondary students in average daily attendance shall not be assigned to the alternative table if the student is from a school district reporting less fewer 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 school, unless the alternative school in question serves students from multiple districts reporting less fewer than one hundred (100) secondary students in average daily attendance. The tables for exceptional education and alternative school 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 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, subparagraph (i) of this subparagraph, and the support units allowance

for the approved exceptional child program, subparagraph (ii) of this subparagraph.

(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, paragraph (b) of this subsection.

(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 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.

SECTION 3. That Section 33-1614, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Section 33-1615, Idaho Code, be, and the same is hereby repealed.

SECTION 5. 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 33-1615, Idaho Code, and to read as follows:

33-1615. READING ASSESSMENT. The state department of education shall be responsible for administration of all assessment efforts and shall train assessment personnel and report results.

(1) In continuing recognition of the critical importance of reading skills, all public school students in kindergarten and grades 1, 2 and 3 shall have their reading skills assessed. For purposes of this assessment, the state board approved research-based "Idaho Comprehensive Literacy Plan" shall be the reference document. The kindergarten assessment shall include reading readiness and phonological awareness. Grades 1, 2 and 3 shall test for fluency, comprehension and accuracy of the student's reading. The assessment shall be by a single statewide test specified by the state board of education, and the state department of education shall ensure that testing shall take place not less than two (2) times per year in the relevant grades. Additional assessments may be administered to students who are identified for reading interventions as set forth in section 33-1616, Idaho Code. The state K-3 assessment test results shall be reviewed by school personnel for the purpose of providing necessary interventions to sustain or improve the students' reading skills. Reports shall be submitted by the school districts in such a manner that it is possible to determine for each school building with kindergarten through grade 3 in each school district the percentage of students who are achieving proficiency on the reading assessment. Results shall be maintained and compiled by the state

department of education and shall be reported annually to the state board, legislature and governor and made available to the public in a consistent manner, by school and by district.

(2) The assessment scores and interventions recommended and implemented shall be maintained in the permanent record of each student.

(3) The administration of the state K-3 assessments is to be done in the local school districts by individuals chosen by the district other than the regular classroom teacher. All those who administer the assessments shall be trained by the state department of education.

(4) It is legislative intent that curricular materials utilized by school districts for kindergarten through grade 3 shall align with the "Idaho Comprehensive Literacy Plan."

SECTION 6. That Section 33-1616, Idaho Code, be, and the same is hereby repealed.

SECTION 7. That Chapter 16, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1616, Idaho Code, and to read as follows:

33-1616. LITERACY INTERVENTION. (1) Each school district and public charter school shall establish an extended time literacy intervention program for students who score basic or below basic on the fall reading screening assessments or alternate reading screening assessment in kindergarten through grade 3 and submit it to the state board of education.

(2) The program shall provide:

(a) Proven effective research based substantial intervention and shall include phonemic awareness, decoding intervention, vocabulary, comprehension and fluency as applicable to the student based on a formative assessment designed to, at a minimum, identify such weaknesses;

(b) May include online or digital instructional materials or programs or library resources and must include parent input and be in alignment with the Idaho comprehensive literacy plan;

(c) A minimum of sixty (60) hours of supplemental instruction for students in kindergarten through grade 3 who score below basic on the reading screening assessment; and

(d) A minimum of thirty (30) hours of supplemental instruction for students in kindergarten through grade 3 who score basic on the reading screening assessment.

(3) Of the funds appropriated for the purpose of this section, no more than one hundred dollars (\$100) per student may be used for transportation costs.

(4) For the purpose of program reimbursement, the state department of education shall adopt reporting forms, establish reporting dates, and adopt such additional guidelines and standards as necessary to accomplish the program goals that every child will read fluently and comprehend printed text on grade level by the end of the third grade.

(5) To ensure students receive high quality literacy instruction and intervention, the state department of education shall provide professional development to districts and schools on best practices supporting literacy instruction as outlined in the state board of education approved "Idaho Comprehensive Literacy Plan." Intervention program participation and effectiveness by school and district shall be presented annually to the state board, the legislature and the governor.

(6) The state board of education shall promulgate rules implementing the provisions of this section. At a minimum, such rules shall include student trajectory growth to proficiency benchmarks and a timeline for reaching such benchmarks.

SECTION 8. The provisions of Section 2 of this act shall be in full force and effect on and after July 1, 2019.

Approved March 23, 2016

CHAPTER 187
(H.B. No. 451)

AN ACT

RELATING TO EDUCATION; PROVIDING LEGISLATIVE INTENT; REPEALING SECTION 33-1614, IDAHO CODE, RELATING TO READING ASSESSMENT; AND AMENDING CHAPTER 16, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1614, IDAHO CODE, TO PROVIDE FOR READING INSTRUCTION AND INTERVENTION AND RELATED PROVISIONS AND TO PROVIDE RULEMAKING AUTHORITY.

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

SECTION 1. LEGISLATIVE INTENT. The Legislature recognizes the importance of a comprehensive approach to ensure that students demonstrate reading proficiency by the end of their third-grade year of education. Reaching this major benchmark requires an important partnership between a parent and a child as the child develops listening and speaking skills in their early years that form the foundation for reading and writing. The greatest impact for ensuring student success in kindergarten through third grade is a productive collaboration among parents, trained teachers and schools. It is paramount that parents are informed about the status of their children's educational progress and that teachers and schools have the resources and support they need to effectively teach reading, assess student achievement, provide intervention when necessary and establish a solid foundation for a student's academic success.

SECTION 2. That Section 33-1614, Idaho Code, be, and the same is hereby repealed.

SECTION 3. 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 33-1614, Idaho Code, and to read as follows:

33-1614. READING INSTRUCTION AND INTERVENTION. (1) It is the ultimate goal of the legislature that every student read at or above grade level by the end of grade 3. School districts shall offer a reading intervention program pursuant to section 33-1616, Idaho Code, to each kindergarten through grade 3 student who exhibits a reading deficiency on the statewide reading assessment pursuant to section 33-1615, Idaho Code, to ensure students can read at or above grade level at the end of grade 3. The reading intervention program shall be provided in addition to core reading instruction that is provided to all students in the general education classroom and must be in alignment with the Idaho comprehensive literacy plan. The reading intervention program shall:

- (a) Be provided to all grade K-3 students identified with a reading deficiency as determined by the statewide reading assessments;
- (b) Provide intensive development in phonemic awareness, phonics, fluency, vocabulary and text comprehension, as applicable to the grade level; and
- (c) Monitor the reading progress of each student's reading skills throughout the school year and adjust instruction according to student needs. Monitoring may include both local and statewide assessments.

(2) Reading Improvement Plan. Any student in kindergarten through grade 3 who exhibits a deficiency in reading at any time based upon the statewide assessment shall receive an individual reading improvement plan no later than thirty (30) days after the identification of the reading deficiency. The reading improvement plan shall be created by the teacher, principal, other pertinent school personnel, including staff-assigned library duties if applicable, and the parent(s) or guardian(s) and shall describe the reading intervention services the student will receive to remedy the reading deficit. Each student must receive intensive reading intervention until the student is determined to be proficient in reading for their grade level.

(a) Having made a good faith effort, should the school be unable to engage the parent or guardian in the development of the student's reading improvement plan within fifteen (15) days of notifying the parent, the school may move forward with the creation of the student's reading improvement plan without parental participation.

(b) Any student who has been identified as not proficient through a local literacy assessment may also be put on a reading improvement plan.

(c) Students who are on a reading improvement plan and have been identified through the statewide assessment to be at grade level may be transitioned off of the reading improvement plan. Schools must notify the parents or guardians in advance of transitioning students off of their reading improvement plan.

(3) Parent Notification. The parent of any student in kindergarten through grade 3 who exhibits a deficiency in reading at any time during the school year must be notified in writing of the reading deficiency. The school district shall assist schools with providing written notification to the parent of any student who has not met grade-level proficiency.

(a) The initial notification must include the following:

(i) A statement that his or her student has been identified as having a deficiency in reading and a reading improvement plan will be established by the teacher, principal, other applicable school personnel and the parent(s) or guardian(s);

(ii) A description of the current services that are provided to the student; and

(iii) A description of the available reading intervention and supplemental instructional services and supports that could be provided to the student that are designed to address the identified areas of reading deficiency.

(b) Following development of the plan, the parent will be provided with:

(i) A description of the reading intervention and supplemental instructional services and support that will be provided to the student that are designed to address the identified areas of reading deficiency; and

(ii) Strategies for parents to use at home in helping their student to succeed in reading.

(c) At the conclusion of each school year, or earlier if it has been determined that the student is proficient and is no longer in need of intervention, the parent or guardian will be updated on the student's progress, including any recommendation for placement.

(4) District Annual Reporting. Each school district shall report to the state department of education by October 1 of each year. The report shall contain the following information on the prior school year:

(a) By grade, the number and percentage of all students in grades K-3 performing at the basic or below basic level on local and statewide assessments in reading; and

(b) By grade, the number and percentage of all students in grades K-3 performing at the proficient or higher level on local and statewide assessments in reading.

(5) Department Responsibilities. The state department of education shall annually compile the information required along with state-level summary information and annually report such information to the state board of education, the public, the governor and the legislature. The department shall provide technical assistance as needed to aid school districts in implementing the provisions of this section.

(6) The state board of education may promulgate rules for the administration and implementation of this section.

Approved March 23, 2016

CHAPTER 188
(H.B. No. 535)

AN ACT

RELATING TO INCOME TAXATION; AMENDING SECTION 63-3022H, IDAHO CODE, TO REVISE THE CAPITAL GAINS DEDUCTION FOR CATTLE, HORSES OR BREEDING LIVESTOCK IN IDAHO; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3022H, 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 Idaho 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;

~~(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 includes the following:

- (a) A "qualified conservation easement," as defined in section 2031(c)(8)(B) of the Internal Revenue Code, conveyed to a "Qualified Organization" as defined in section 170(h) of the Internal Revenue Code;
- (b) Grazing permits or leases issued by the U.S. forest service, the bureau of land management or the Idaho department of lands, if such permit is transferred simultaneously with the transfer of the "base property"; and
- (c) Any other property defined in section 1250(c) of the Internal Revenue Code as "section 1250 property" conveyed in perpetuity, the transfer of which would be required to be in writing by section 9-503, Idaho Code.

(6) Property that has been depreciated pursuant to section 1245 of the Internal Revenue Code is not eligible to be treated as real property for purposes of this deduction.

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, 2016.

Approved March 24, 2016

CHAPTER 189
(H.B. No. 534)

AN ACT

RELATING TO THE TAXATION OF THE SOLAR ENERGY PRODUCTION OF ELECTRICITY; REPEALING SECTION 63-602JJ, IDAHO CODE, RELATING TO CERTAIN PROPERTY EXEMPT FROM PROPERTY TAXATION; AMENDING CHAPTER 6, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-602JJ, IDAHO CODE, TO PROVIDE FOR THE EXEMPTION OF CERTAIN PROPERTY; AMENDING SECTION 63-802, IDAHO CODE, TO ADD A LIMITATION ON BUDGET REQUESTS BY TAXING DISTRICTS TO ACCOUNT FOR SOLAR ENERGY TAX RECEIVED AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-802, IDAHO CODE, AS AMENDED BY SECTION 2, CHAPTER 10, LAWS OF 2015, TO ADD A LIMITATION ON BUDGET REQUESTS BY TAXING DISTRICTS TO ACCOUNT FOR SOLAR ENERGY TAX RECEIVED AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-3501, IDAHO CODE, TO REMOVE AND TO REVISE DEFINITIONS; AMENDING SECTION 63-3502, IDAHO CODE, TO CLARIFY THE TYPE OF PROPERTY SUBJECT TO THE GROSS RECEIPTS TAX; AMENDING SECTION 63-3502A, IDAHO CODE, TO CLARIFY THE TYPE OF PROPERTY SUBJECT TO THE GROSS EARNINGS TAX; AMENDING SECTION 63-3502B, IDAHO CODE, TO LEVY A TAX OF THREE AND ONE-HALF PERCENT ON GROSS SOLAR ENERGY EARNINGS; AMENDING SECTION 63-3503, IDAHO CODE, TO CLARIFY THE TYPE OF PROPERTY SUBJECT TO THE GROSS RECEIPTS TAX; AMENDING SECTION 63-3503A, IDAHO CODE, TO CLARIFY THE TYPE OF PROPERTY SUBJECT TO THE GROSS RECEIPTS TAX; AMENDING SECTION 63-3503B, IDAHO CODE, TO REQUIRE A REPORT OF GROSS SOLAR ENERGY EARNINGS, TO PROVIDE FOR THE APPORTIONMENT OF THE SOLAR ENERGY TAX AND TO CLARIFY THE TYPE OF PROPERTY SUBJECT TO THE GROSS RECEIPTS TAX; AMENDING SECTION 63-3504, IDAHO CODE, TO PROVIDE FOR NOTICE OF THE TAX OWED BY SOLAR ENERGY ELECTRICITY PRODUCERS; AMENDING SECTION 63-3505, IDAHO CODE, TO AUTHORIZE A LIEN ON PROPERTY FOR UNPAID SOLAR ENERGY TAXES; AMENDING SECTION 63-3506, IDAHO CODE, TO PROVIDE THAT CERTAIN PROPERTY OF SOLAR ENERGY ELECTRICITY PRODUCERS IS TAXABLE AND IS SUBJECT TO A LIEN FOR UNPAID TAXES; AMENDING SECTION 43-1510, IDAHO CODE, TO CLARIFY THE TYPE OF IRRIGATION PROPERTY THAT IS EXEMPT FROM TAXATION; AMENDING SECTION 63-602N, IDAHO CODE, TO CLARIFY THE TYPE OF IRRIGATION PROPERTY THAT IS EXEMPT FROM TAXATION; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 63-602JJ, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 6, 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 63-602JJ, Idaho Code, and to read as follows:

63-602JJ. PROPERTY EXEMPT FROM TAXATION -- CERTAIN PROPERTY OF PRODUCER OF ELECTRICITY BY MEANS OF WIND, SOLAR OR GEOTHERMAL ENERGY. Real estate, fixtures or personal property is exempt from taxation if it is:

(1) Owned, controlled, operated or managed by an electrical or natural gas association or producer of electricity by means of wind energy, solar energy or geothermal energy, excluding entities that are regulated by the Idaho public utilities commission as to price;

(2) Held or used in connection with or to facilitate the generation, transmission, distribution, delivery or measuring of electric power, natural gas or electrical energy generated, manufactured or produced by means of wind energy, solar energy or geothermal energy, and all conduits, ducts or other devices, materials, apparatus or property for containing, holding or carrying conductors used for the transmission, distribution and delivery

of electric power, natural gas or electric energy generated, manufactured or produced by means of wind energy, solar energy or geothermal energy, including construction tools, materials and supplies; and

(3) Subject to the taxes on gross wind, solar or geothermal energy earnings pursuant to chapter 35, title 63, Idaho Code.

SECTION 3. 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 (j) 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~~ forgone increase by certifying, in addition to any increase otherwise allowed, an amount not to exceed one hundred percent (100%) of the increase originally ~~foregone~~ forgone. 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;

(j) The amount of money received in the twelve (12) months immediately preceding June 30 of the current tax year as a result of distributions of the tax provided in section 63-3502B(2), 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 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 4. That Section 63-802, Idaho Code, as amended by Section 2, Chapter 10, Laws of 2015, 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 (ij) 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~~ forgone increase by certifying, in addition to any increase otherwise allowed, an amount not to exceed one hundred percent (100%) of the increase originally ~~foregone~~ forgone. 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;

(j) The amount of money received in the twelve (12) months immediately preceding June 30 of the current tax year as a result of distributions of the tax provided in section 63-3502B(2), 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 5. That Section 63-3501, Idaho Code, be, and the same is hereby amended to read as follows:

63-3501. DEFINITIONS. For the purposes of this chapter:

(a) The term "cooperative electrical association" means any nonprofit, cooperative association organized and maintained by its members, whether incorporated or unincorporated, for the purpose of transmitting, distributing or delivering electric power to its members.

(b) The term "cooperative natural gas association" means any nonprofit cooperative association organized and maintained by its members, whether incorporated or unincorporated, for the purpose of transmitting, distributing or delivering natural gas to its members.

(c) The term "cost of power" means the cost of power purchases and generation included in reports to, and in accordance with applicable requirements of, the rural electrification administration, United States department of agriculture, by cooperative electrical associations which are borrowers from the rural electrification administration, and for cooperative electrical associations which are not borrowers from the rural electrification administration, such costs which could have been included by such cooperative electrical associations using equivalent reporting and accounting requirements. The state tax commission shall prescribe necessary rules for the purpose of providing a uniform method of reporting cost of power purchases and generation by cooperative electrical associations, consistent with the reporting and accounting requirements of the rural electrification administration.

(d) The term "cost of gas" means the cost of natural gas purchased by cooperative natural gas associations from wholesale or other suppliers of natural gas for delivery to members of the cooperative natural gas association.

(e) The term "gross electrical earnings" means the gross receipts of a cooperative electrical association from the distribution, delivery and sale of electric power within the state of Idaho, but shall not include any earnings or receipts from the distribution, delivery or sale of electric power consumed in pumping water for irrigation or drainage purposes within the state of Idaho, upon the land of such consumer and for the use and benefit of his own land, and where such consumer has received from the association a refund, rebate, or credit of three and one-half percent (3 1/2%) of the cost to him of the electric power so used and consumed.

(f) The term "gross natural gas earnings" means the gross receipts of a cooperative natural gas association from the distribution, delivery and sale of natural gas within the state of Idaho.

(g) The term "gross wind, solar or geothermal energy earnings" means the gross receipts of a wind energy generator, solar energy generator or a geothermal energy generator from the distribution, delivery and sale to a

customer for the direct use or resale of electrical energy generated, manufactured or produced by means of wind energy, solar energy or geothermal energy within the state of Idaho.

~~(h) The term "operating property" means and includes all real estate, fixtures or personal property owned, controlled, operated or managed by such electrical or natural gas association, or producer of electricity by means of wind energy or geothermal energy, excluding entities that are regulated by the Idaho public utilities commission as to price, in connection with or to facilitate the generation, transmission, distribution, delivery, or measuring of electric power, natural gas, or electrical energy generated, manufactured or produced by means of wind energy or geothermal energy, excluding entities that are regulated by the Idaho public utilities commission as to price, and all conduits, ducts, or other devices, materials, apparatus or property for containing, holding or carrying conductors used for the transmission, distribution and delivery of electric power, natural gas, or electrical energy generated, manufactured or produced by means of wind energy or geothermal energy, excluding entities that are regulated by the Idaho public utilities commission as to price, including construction tools, materials and supplies.~~

~~(i) The term "nonoperating property" means all other property, real or personal, owned, controlled or managed by such electrical or natural gas association.~~

~~(j) The term "taxing unit" shall include any of the following that had property taxes levied in the prior year: the separate taxing districts of the county as well as the county itself and any such taxing district's fund having a different geographical boundary than such taxing district itself.~~

~~(k) The term "tax levy" means the total tax levies fixed by each taxing district, as defined herein, in the prior calendar year.~~

~~(l) The term "WPPSS 4 and 5 costs" means, for a cooperative electrical association which is a participant under the Washington public power supply system nuclear projects numbers 4 and 5 participants' agreement, dated July 14, 1976, all of its costs in connection with Washington public power supply system nuclear projects numbers 4 and 5.~~

~~(m) The term "weighted wire mileage factor" means a figure which is arrived at by multiplying the tax levy of each taxing unit by the number of wire miles of transmission and distribution lines of such cooperative electrical association situated in such taxing unit.~~

~~(n) The term "gas line mileage factor" means a figure which is arrived at by multiplying the tax levy of each taxing unit by the number of miles of natural gas transmission and distribution lines of such cooperative natural gas association situated in such taxing unit.~~

SECTION 6. That Section 63-3502, Idaho Code, be, and the same is hereby amended to read as follows:

63-3502. LEVY OF TAX ON ANNUAL GROSS ELECTRICAL EARNINGS. There shall be levied against every cooperative electrical association in this state a tax of three and one-half percent (3 1/2%) of its annual gross earnings, after first reducing such gross earnings by its cost of power and WPPSS 4 and 5 costs in such sum as the amount of its gross earnings bear to its gross receipts from the distribution, delivery and sale of electric power within the state of Idaho. This tax shall be in lieu of all other taxes on the operating property of such association exempted pursuant to section 63-602JJ, Idaho Code, for the tax year next preceding the filing of the statement hereinafter provided for, and which shall be paid in the manner and at the time prescribed herein.

SECTION 7. That Section 63-3502A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3502A. LEVY OF TAX ON ANNUAL GROSS NATURAL GAS EARNINGS. There shall be levied against every cooperative natural gas association in this state a tax of three and one-half percent (3 1/2%) of its annual gross earnings, after first reducing such gross earnings by its cost of natural gas. This tax shall be in lieu of all other taxes on the operating property of such association exempted pursuant to section 63-602JJ, Idaho Code, of the tax year next preceding the filing of the statement hereinafter provided for, and which shall be paid in the manner and at the time prescribed herein.

SECTION 8. That Section 63-3502B, Idaho Code, be, and the same is hereby amended to read as follows:

63-3502B. LEVY OF TAX ON WIND ENERGY, SOLAR ENERGY OR GEOTHERMAL ENERGY ELECTRICAL PRODUCTION. (1) There A wind energy tax or a geothermal energy tax shall be levied against every producer of electricity by means of wind energy or geothermal energy a wind energy tax or a geothermal energy tax equal to in the amount of three percent (3%) of such producer's gross wind energy earnings or geothermal energy earnings.

(2) A solar energy tax shall be levied against every producer of electricity by means of solar energy in the amount of three and one-half percent (3.5%) of the producer's gross solar energy earnings.

(3) This wind energy tax, solar energy tax or geothermal energy tax shall be in lieu of all other taxes on the operating property, as defined in section 63-3501(h), Idaho Code, of such wind energy producer, of such solar energy producer or of such geothermal energy producer exempted pursuant to section 63-602JJ, Idaho Code.

(4) For purposes of the certification required by section 63-803, Idaho Code, and the limitations provided by section 63-802, Idaho Code, the taxes levied pursuant to subsection (2) of this section shall reduce the property tax to be levied to finance an annual budget, and shall not be included in the amount of property tax revenues to finance an annual budget for purposes of limitations on increases in the annual budget as provided in section 63-802, Idaho Code.

SECTION 9. That Section 63-3503, Idaho Code, be, and the same is hereby amended to read as follows:

63-3503. FILING OPERATORS' STATEMENT -- ALLOTMENT AND APPORTIONMENT OF TAX DUE FROM ELECTRICAL ASSOCIATIONS BY STATE TAX COMMISSION. Every cooperative electrical association in this state shall file with the state tax commission of the state of Idaho the operators' statement provided for in section 63-404, Idaho Code, and shall include thereon a statement of the amount of its gross earnings for the calendar year next preceding. Upon examining and verifying said statement the state tax commission shall compute the amount of the tax measured by the gross earnings and shall allot to each county in which the operating property of such association is situate, and otherwise exempted from taxation by section 63-602JJ, Idaho Code, that proportion of the total tax of such association shown to be due as the number of wire miles of transmission and distribution lines of such association situate in such county bears to the total wire miles of transmission and distribution lines of such association. The state tax commission shall then, for each county, apportion the tax so allotted to the county among the several taxing units thereof within which any operating property of such association is situate, and otherwise exempted from taxation by section 63-602JJ, Idaho Code, by apportioning to each such taxing unit that proportion of the tax so allotted to the county as the weighted wire mileage factor for each such taxing unit bears to the total of the weighted wire mileage factors of all such taxing units in the county, and shall immediately notify

the state superintendent of public instruction and the county treasurer of such allotment and apportionment and the amounts thereof.

SECTION 10. That Section 63-3503A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3503A. FILING OPERATORS' STATEMENT -- ALLOTMENT AND APPORTIONMENT OF TAX DUE FROM NATURAL GAS ASSOCIATIONS BY STATE TAX COMMISSION. Every cooperative natural gas association in this state shall file with the state tax commission of the state of Idaho the operators' statement provided for in section 63-404, Idaho Code, and shall include thereon a statement of the amount of its gross earnings for the calendar year next preceding. Upon examining and verifying said statement the state tax commission shall compute the amount of the tax measured by the gross earnings and shall allot to each county in which the operating property of such association is situate, and otherwise exempted from taxation by section 63-602JJ, Idaho Code, that proportion of the total tax of such association shown to be due as the number of gas line miles of transmission and distribution lines of such association situate in such county bears to the total wire miles of transmission and distribution lines of such association. The state tax commission shall then, for each county, apportion the tax so allotted to the county among the several taxing units thereof within which any operating property of such association is situate, and otherwise exempted from taxation by section 63-602JJ, Idaho Code, by apportioning to each such taxing unit that proportion of the tax so allotted to the county as the gas line mileage factor for each such taxing unit bears to the total of the gas line mileage factors of all such taxing units in the county, and shall immediately notify the state superintendent of public instruction and the county treasurer of such allotment and apportionment and the amounts thereof.

SECTION 11. That Section 63-3503B, Idaho Code, be, and the same is hereby amended to read as follows:

63-3503B. FILING OPERATORS' STATEMENTS -- ALLOTMENT AND APPORTIONMENT OF TAX DUE FROM PRODUCERS OF ELECTRICITY BY MEANS OF WIND ENERGY, SOLAR ENERGY OR GEOTHERMAL ENERGY BY STATE TAX COMMISSION. Every producer of electricity by means of wind energy, by means of solar energy or by means of geothermal energy in this state shall file with the state tax commission of the state of Idaho an operator's statement in the manner as provided for in section 63-404, Idaho Code, and shall include thereon a statement of the prior calendar year's gross wind energy earnings, gross solar energy earnings or gross geothermal energy earnings. Upon examining and verifying said statement, the state tax commission shall compute the amount of the wind energy tax, solar energy tax or the geothermal energy tax based on the gross wind energy earnings, gross solar energy earnings or the gross geothermal energy earnings and shall allot to each county in which the operating property of such producer is situate, and otherwise exempted from taxation by section 63-602JJ, Idaho Code, either: that proportion of the total wind energy tax, that proportion of the total solar energy tax or that proportion of the total geothermal energy tax of such producer shown to be due as the same proportion that the total original cost of operating property situate in such county, and otherwise exempted from taxation by section 63-602JJ, Idaho Code, bears to the total original cost of operating such property of such producer for the wind energy project, of such producer for the solar energy project or of such producer for the geothermal energy project. The state tax commission shall then, for each county, apportion the wind energy tax, solar energy tax or geothermal energy tax so allotted to such county among the several taxing units thereof within which any operating property of such producer is situate, and otherwise exempted

from taxation by section 63-602JJ, Idaho Code, by apportioning to each such taxing unit that proportion of the wind energy tax, solar energy tax or geothermal energy tax so allotted to such county. For such apportionment, the state tax commission shall calculate the weighted original cost which shall be the product of the original cost of such operating property within such taxing unit times such taxing unit's property tax levy for the prior year and the weighted apportionment rate which shall be the ratio of the wind energy tax, of the solar energy tax or of the geothermal energy tax, as the case may be, allotted to such county, to the aggregate weighted original cost for all such taxing units within which the operating property is located and then shall calculate the apportionment of the wind energy tax, solar energy tax or geothermal energy tax for each such taxing unit to be equal to the product of the weighted original cost times the weighted apportionment rate. The state tax commission shall, on or before the second Monday in August, notify the state superintendent of public instruction, the county auditor, and the county treasurer of such allotment and apportionment and the amounts thereof. On or before the third Monday in August, the county auditor shall notify the appropriate taxing units of the amount of wind energy tax, the amount of solar energy tax or the amount of the geothermal energy tax being apportioned.

SECTION 12. That Section 63-3504, Idaho Code, be, and the same is hereby amended to read as follows:

63-3504. COLLECTION BY COUNTY TREASURER -- PENALTY AND INTEREST IMPOSED WHEN DELINQUENT. Upon receipt of the notification of the allotment and apportionment of such taxes by the state tax commission by the county treasurer, said county treasurer shall, not later than June 15 of each year, notify each cooperative electrical association, natural gas cooperative, and producer of electricity by means of wind energy, by means of solar energy or by means of geothermal energy, of the amount of taxes owed, and the apportionment thereof to the county and to the several taxing districts in the county and such tax shall be due and payable not later than July 1, following and, upon the payment thereof, the county treasurer shall pay over to each taxing district its apportionment as herein determined. Any such taxes not paid by July 1, as aforesaid, shall become delinquent and a penalty of five percent (5%) thereof shall be imposed, together with interest at the rate of one percent (1%) per month from July 1 until paid.

SECTION 13. That Section 63-3505, Idaho Code, be, and the same is hereby amended to read as follows:

63-3505. TAXES A LIEN ON PROPERTY OF ASSOCIATION OR PRODUCER UNTIL PAID. All taxes due and payable under this chapter shall be a lien on all property, real and personal, of the electrical, or natural gas association, or the producer of electricity by means of wind energy, by means of solar energy or by means of geothermal energy, owing the same, as of June 15 of each year and shall be discharged only by the payment thereof. In any action to enforce payment of any delinquent taxes due under this chapter, the county prosecuting such action shall be entitled to a judgment for the reasonable costs of prosecuting such action, as well as for the delinquent taxes, penalty and interest.

SECTION 14. That Section 63-3506, Idaho Code, be, and the same is hereby amended to read as follows:

63-3506. ASSESSMENT OF ~~NONOPERATING~~ PROPERTY BY ASSESSOR. The nonoperating Any property not subject to the gross receipts tax levied in this chapter of any cooperative electrical or natural gas association, or pro-

ducer of electricity by means of wind energy, by means of solar energy or by means of geothermal energy, shall be assessed by the county assessor of the county wherein such property is situate, and taxes levied against the same shall be a lien, and shall be due and payable, in the same manner as are any other taxes on property.

SECTION 15. That Section 43-1510, Idaho Code, be, and the same is hereby amended to read as follows:

43-1510. TAX EXEMPTIONS. The following irrigation district property and the revenue therefrom shall be exempt from taxation: (1) water rights for the irrigation of lands; (2) irrigation structures described in section 63-602N(2), Idaho Code; (3) all ~~operating~~ property described in section 63-602N(3), Idaho Code; and (4) all parks and recreational facilities owned or maintained by an irrigation district pursuant to this title. Such property tax exemption shall not be subject to approval by the county board of equalization. Bonds and interim notes, and interest thereon, issued pursuant to the authority contained in this title shall be exempt from taxation under the Idaho income tax law.

SECTION 16. That Section 63-602N, Idaho Code, be, and the same is hereby amended to read as follows:

63-602N. PROPERTY EXEMPT FROM TAXATION -- IRRIGATION WATER AND STRUCTURES -- ~~OPERATING CERTAIN PROPERTY OF IRRIGATION DISTRICTS OR CANAL COMPANIES~~. (1) Water rights for the irrigation of lands are exempt from taxation.

(2) Canals, ditches, pipelines, flumes, aqueducts, reservoirs, dams, and any other necessary facility used primarily for the conveyance, storage, or providing of water for the irrigation of lands, are exempt from taxation to the extent irrigation water is thereby conveyed, stored or diverted; provided that if any portion of such property is used for purposes other than irrigation of lands or the conveyance, storage, or providing of water to a nonprofit irrigation company or irrigation district, the assessor shall determine the entire value of such property so used and assess the proportionate part of such property that is devoted to such use.

(3) All real and personal property is exempt that is owned, used, operated or occupied:

(a) Primarily for the maintenance and operation of any irrigation project or irrigation works or system in conducting the business of furnishing water to landowners, members or shareholders; or

(b) ~~The operating property of all~~ By any organizations, whether incorporated or unincorporated, heretofore organized or which shall hereafter be organized, for the operation, maintenance, or management of an irrigation project or irrigation works or system ~~or~~ and for the purpose of furnishing water to its landowners, members or shareholders, the control of which is actually vested in those entitled to the use of the water from such irrigation works or system for the irrigation of lands to which the water from such irrigation works or system is appurtenant, is exempt from taxation. The term "operating property" as used in this section shall include all real and personal property owned, used, operated or occupied primarily for the maintenance and operation of such irrigation project or irrigation works and system or in conducting its business of furnishing water to its landowners, members or shareholders and shall include including all title and interest in such property as owner, lessee, or otherwise.

~~p~~Provided, that if any portion of such ~~operating~~ property is used for commercial purposes by others than its landowners, members or shareholders, the assessor shall determine the entire value of such portion of the ~~operating~~

property so used and assess the proportionate part of such ~~operating~~ the property that is used for commercial purposes.

SECTION 17. The provisions of Section 4 of this act shall be in full force and effect on and after July 1, 2017.

Approved March 24, 2016

CHAPTER 190
(H.B. No. 524)

AN ACT

RELATING TO THE TORTURE OF COMPANION ANIMALS; AMENDING SECTION 25-3502, IDAHO CODE, TO REVISE AND ADD DEFINITIONS; AMENDING CHAPTER 35, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-3504A, IDAHO CODE, TO ESTABLISH THE CRIME OF TORTURING A COMPANION ANIMAL; AND AMENDING SECTION 25-3520A, IDAHO CODE, TO REVISE PENALTIES AND TO AUTHORIZE THE COURT TO ORDER A PRESENTENCE PSYCHOLOGICAL EVALUATION OF THE DEFENDANT.

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

SECTION 1. That Section 25-3502, Idaho Code, be, and the same is hereby amended to read as follows:

25-3502. DEFINITIONS. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) "Abandon" means to completely forsake and desert an animal previously under the custody or possession of a person without making reasonable arrangements for its proper care, sustenance and shelter.

(2) "Animal" means any vertebrate member of the animal kingdom, except man.

(3) "Animal care and control agency" means any agency incorporated under the laws of this state to which a county or municipality has conferred authority to exercise the powers and duties set forth in this chapter based upon the agency's ability to fulfill the purposes of this chapter.

(4) "Companion animal" means those animals solely kept as pets and not used as production animals, as defined in this section, including, but not limited to, domestic dogs, domestic cats, rabbits, companion birds, and other animals ~~commonly kept as pets~~.

(5) "Cruel" or "cruelty" shall mean any or all of the following:

(a) The intentional and malicious infliction of pain, physical suffering, injury or death upon an animal;

(b) To maliciously kill, maim, wound, ~~overdrive, overload, drive when overloaded, overwork, torture,~~ torment, deprive of necessary sustenance, drink or shelter, cruelly beat, mutilate or cruelly kill an animal;

(c) To subject an animal to needless suffering, or inflict unnecessary cruelty, ~~drive, ride or otherwise use an animal when same is unfit;~~

(d) To knowingly abandon an animal;

(e) To negligently confine an animal in unsanitary conditions or to negligently house an animal in inadequate facilities; to negligently fail to provide sustenance, water or shelter to an animal.

(6) "Department" means the Idaho state department of agriculture.

(7) "Department investigator" means a person employed by, or approved by, the Idaho state department of agriculture, division of animal industries, to determine whether there has been a violation of this chapter.

(8) "Division" means the division of animal industries of the Idaho state department of agriculture.

(9) "Custodian" means any person who keeps or harbors an animal, has an animal in his care or acts as caretaker of an animal.

(10) "Malicious" or "maliciously" means the intentional doing of a wrongful act without just cause or excuse, with an intent to inflict an injury or death.

(11) "Owner" means any person who has a right of property in an animal.

(12) "Person" means any individual, firm, corporation, partnership, other business unit, society, association or other legal entity, any public or private institution, the state of Idaho, or any municipal corporation or political subdivision of the state.

(13) "Pound" means a place enclosed by public authority for the detention of stray animals.

(14) "Production animal" means, for purposes of this chapter:

(a) The following animals if owned used for the express purpose of producing food or fiber, or other commercial activity, in furtherance of the production of food or fiber, or other commercial activity, or to be sold for the use by another for such purpose: cattle, sheep, goats, swine, poultry, ratites, equines, domestic cervidae, camelidae, and guard and stock dogs; and

(b) Furbearing animals kept for the purpose of commercial fur production.

(15) "Torture" means the intentional, knowing and willful infliction of unjustifiable and extreme or prolonged pain, mutilation or maiming done for the purpose of causing suffering. "Torture" shall not mean or include acts of omission or of neglect nor acts committed unintentionally or by accident. "Torture" also shall not mean or include normal or legal practices as provided in section 25-3514, Idaho Code.

SECTION 2. That Chapter 35, Title 25, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 25-3504A, Idaho Code, and to read as follows:

25-3504A. TORTURING COMPANION ANIMALS. (1) A person is guilty of the offense of torturing a companion animal if he tortures a companion animal as defined in this chapter.

(2) A person convicted of torturing a companion animal shall be guilty of a misdemeanor, if it is the person's first conviction under this section, and shall be punished according to section 25-3520A(1) or (2), Idaho Code.

(3) A person convicted of a subsequent violation of torturing a companion animal shall be guilty of a felony and shall be punished under the provisions of section 25-3520A(3) (b), Idaho Code.

(4) Notwithstanding subsection (2) of this section, a person convicted of torturing a companion animal for the first time, but who, within ten (10) years prior to the conviction, also has been convicted of a felony offense involving the voluntary infliction of bodily injury upon any human shall be guilty of a felony and shall be punished according to the provisions of section 25-3520A(3) (b), Idaho Code.

(5) Before sentencing an individual convicted of a violation of this section, the court shall order and consider a presentence investigation that shall include a psychological evaluation of the defendant.

SECTION 3. That Section 25-3520A, Idaho Code, be, and the same is hereby amended to read as follows:

25-3520A. PENALTY FOR VIOLATIONS -- TERMINATION OF RIGHTS. (1) Except as otherwise provided in section 25-3503 or 25-3506, Idaho Code Unless otherwise specified in this chapter, any person convicted for of a first viola-

tion of ~~any of the~~ a provisions of this chapter shall be punished, for each offense, by a jail sentence of not more than six (6) months or by a fine of not less than one hundred dollars (\$100) or more than five thousand dollars (\$5,000), or by both such fine and imprisonment.

(2) ~~Except as otherwise provided in section 25-3503 or 25-3506, Idaho Code~~ Unless otherwise specified in this chapter, any person convicted of a second violation of ~~any of the~~ a provisions of this chapter within ten (10) years of the first conviction, shall be punished for each offense, by a jail sentence of not more than nine (9) months or a fine of not less than two hundred dollars (\$200) or more than seven thousand dollars (\$7,000), or by both such fine and imprisonment.

(3) (a) ~~Except as otherwise provided in section 25-3503 or 25-3506, Idaho Code~~ Unless the penalty is otherwise specified in this chapter, any person convicted of a third or subsequent violation of any of the provisions of this chapter, ~~except certain violations of section 25-3504, Idaho Code, as provided in paragraph (b) of this subsection,~~ within fifteen (15) years of the first conviction, shall be guilty of a misdemeanor and punished for each offense by a jail sentence of not more than twelve (12) months or a fine of not less than five hundred dollars (\$500) or more than nine thousand dollars (\$9,000), or by both such fine and imprisonment.

(b) ~~Except as provided in section 25-3503, Idaho Code,~~ Any person convicted of section 25-3504A(3) or (4), Idaho Code, or any person convicted of a third or subsequent violation who previously has been found guilty of or has pled guilty to two (2) violations of section 25-3504, Idaho Code, provided the violations were for conduct as defined by section 25-3502(5) (a) or (b), Idaho Code, within fifteen (15) years of the first conviction, shall be guilty of a felony and punished for each offense by a jail sentence of not more than twelve (12) months or a fine of not less than five hundred dollars (\$500) or not more than nine thousand dollars (\$9,000), or by both such fine and imprisonment. All other violations of section 25-3504, Idaho Code, for conduct as defined by ~~any other paragraphs, other than paragraph (a) (c), (d) or (e) of section 25-3502(5), Idaho Code,~~ shall constitute misdemeanors and shall be punishable as provided in paragraph (a) of this subsection.

(c) Each prior conviction or guilty plea shall constitute one (1) violation of this chapter regardless of the number of counts involved in the conviction or guilty plea. Practices described in section 25-3514, Idaho Code, are not animal cruelty.

(4) If a person pleads guilty or is found guilty of an offense under this chapter, the court may issue an order terminating the person's right to possession, title, custody or care of an animal that was involved in the offense or that was owned or possessed at the time of the offense. If a person's right to possession, title, custody or care of an animal is terminated, the court may award the animal to a humane society or other organization that has as its principal purpose the humane treatment of animals, or may award the animal to a law enforcement agency or animal care and control agency. The court's award of custody or care of an animal will grant to the organization or agency the authority to determine custody, adoption, sale or other disposition of the animal thereafter.

(5) Prior to sentencing pursuant to the provisions of this chapter, the court may in its discretion order a presentence psychological evaluation. If the prosecutor requests a presentence psychological evaluation prior to sentencing, the court shall determine whether a presentence psychological evaluation is warranted.

CHAPTER 191
(H.B. No. 515)

AN ACT

RELATING TO PROFESSIONAL PERSONNEL OF SCHOOL DISTRICTS; AMENDING SECTION 33-513, IDAHO CODE, TO PROVIDE FOR FORMAL WRITTEN PERFORMANCE EVALUATIONS, TO PROVIDE WHEN A SCHOOL DISTRICT SHALL BE EXCUSED FROM CONDUCTING FORMAL WRITTEN PERFORMANCE EVALUATIONS, TO PROVIDE FOR WRITTEN EVALUATIONS OF PRINCIPALS AND ASSISTANT SUPERINTENDENTS, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-514, IDAHO CODE, TO MAKE A DATE CHANGE AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 33-515, IDAHO CODE, TO MAKE A DATE CHANGE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 33-513, Idaho Code, be, and the same is hereby amended to read as follows:

33-513. PROFESSIONAL PERSONNEL. The board of trustees of each school district, including any specially chartered district, shall have the following powers and duties:

1. To employ professional personnel, on written contract in form approved by the state superintendent of public instruction, conditioned upon a valid certificate being held by such professional personnel at the time of entering upon the duties thereunder. Should the board of trustees fail to enter into written contract for the employment of any such person, the state superintendent of public instruction shall withhold ensuing apportionments until such written contract be entered into. When the board of trustees has delivered a proposed contract for the next ensuing year to any such person, such person shall have a period of time to be determined by the board of trustees in its discretion, but in no event less than ten (10) calendar days from the date the contract is delivered, in which to sign the contract and return it to the board. If the board of trustees does not make a determination as to how long the person has to sign and return the contract, the default time limit shall be twenty-one (21) calendar days after the contract is delivered to the person. Delivery of a contract may be made only in person or by certified mail, return receipt requested or electronically, return receipt requested. When delivery is made in person, delivery of the contract must be acknowledged by a signed receipt. When delivery is made by certified mail or electronically, delivery must be acknowledged by the return of the certified mail receipt or return electronic receipt from the person to whom the contract was sent. If the delivery is made electronically, with return electronic receipt, and the district has not received a return of a signed contract and has not received an electronic read receipt from the employee, the district shall then resend the original electronically delivered contract to the employee via certified mail, return receipt requested, and provide such individual with a new date for contract return. Should the person willfully refuse to acknowledge receipt of the contract or the contract is not signed and returned to the board in the designated period of time or if no designated period of time is set by the board, the default time, the board or its designee may declare the position vacant.

The board of trustees shall withhold the salary of any teacher who does not hold a teaching certificate valid in this state. It shall not contract to require any teacher to make up time spent in attending any meeting called by the state board of education or by the state superintendent of public instruction; nor while attending regularly scheduled official meetings of the state teachers' association.

No contract shall be issued for the next ensuing year until such time as the employee's formal written performance evaluation has been completed.

If applicable student data relating to Idaho's standards achievement test has not been received by the district within thirty (30) days of the deadline to complete the formal written performance evaluation for district employees, the school district or charter school shall utilize one (1) of the other objective measures of growth in student achievement as determined by the board of trustees or governing board, not including Idaho's standards achievement test, in order to complete the required student achievement component of performance evaluations.

2. In the case of school districts other than elementary school districts, to employ a superintendent of schools for a term not to exceed three (3) years, who shall be the executive officer of the board of trustees with such powers and duties as the board may prescribe. The superintendent shall also act as the authorized representative of the district whenever such is required, unless some other person shall be named by the board of trustees to act as its authorized representative. The board of trustees shall conduct an annual, written formal evaluation of the work of the superintendent of the district to be completed no later than June 1. The evaluation shall indicate the strengths and weaknesses of the superintendent's job performance in the year immediately preceding the evaluation and areas where improvement in the superintendent's job performance, in the view of the board of trustees, is called for.

3. To employ through written contract principals who shall hold a valid certificate appropriate to the position for which they are employed, who shall supervise the operation and management of the school in accordance with the policies established by the board of trustees and who shall be under the supervision of the superintendent.

4. To employ assistant superintendents and principals for a term not to exceed two (2) years. Service performed under such contract shall be included in meeting the provisions of section 33-515, Idaho Code, as a teacher and persons eligible for a renewable contract as a teacher shall retain such eligibility. The superintendent, the superintendent's designee, or in a school district that does not employ a superintendent, the board of trustees, shall conduct an annual, written evaluation of each such employee's performance to be completed no later than June 1.

5. To suspend, grant leave of absence, place on probation or discharge certificated professional personnel for a material violation of any lawful rules or regulations of the board of trustees or of the state board of education, or for any conduct which could constitute grounds for revocation of a teaching certificate. Any certificated professional employee, except the superintendent, may be discharged during a contract term under the following procedures:

(a) The superintendent or any other duly authorized administrative officer of the school district may recommend the discharge of any certificated employee by filing with the board of trustees written notice specifying the alleged reasons for discharge.

(b) Upon receipt of such notice, the board, acting through its duly authorized administrative official, shall give the affected employee written notice of the allegations and the recommendation of discharge, along with written notice of a hearing before the board prior to any determination by the board of the truth of the allegations.

(c) The hearing shall be scheduled to take place not less than six (6) days nor more than twenty-one (21) days after receipt of the notice by the employee. The date provided for the hearing may be changed by mutual consent.

(d) The hearing shall be public unless the employee requests in writing that it be in executive session.

- (e) All testimony at the hearing shall be given under oath or affirmation. Any member of the board, or the clerk of the board, may administer oaths to witnesses or affirmations by witnesses.
- (f) The employee may be represented by legal counsel and/or by a representative of a local or state teachers association.
- (g) The chairman of the board or the designee of the chairman shall conduct the hearing.
- (h) The board shall cause an electronic record of the hearing to be made or shall employ a competent reporter to take stenographic or stenotype notes of all the testimony at the hearing. A transcript of the hearing shall be provided at cost by the board upon request of the employee.
- (i) At the hearing, the superintendent or other duly authorized administrative officer shall present evidence to substantiate the allegations contained in such notice.
- (j) The employee may produce evidence to refute the allegations. Any witness presented by the superintendent or by the employee shall be subject to cross-examination. The board may also examine witnesses and be represented by counsel.
- (k) The affected employee may file written briefs and arguments with the board within three (3) days after the close of the hearing or such other time as may be agreed upon by the affected employee and the board.
- (l) Within fifteen (15) days following the close of the hearing, the board shall determine and, acting through its duly authorized administrative official, shall notify the employee in writing whether the evidence presented at the hearing established the truth of the allegations and whether the employee is to be retained, immediately discharged, or discharged upon termination of the current contract.
- (m) If the employee appeals the decision of the board of trustees to the district court, the district court may affirm the board's decision or set it aside and remand the matter to the board of trustees upon the following grounds and shall not set the same aside for any other grounds:
- (i) That the findings of fact are not based upon any substantial, competent evidence;
 - (ii) That the board of trustees has acted without jurisdiction or in excess of its authority; or
 - (iii) That the findings by the board of trustees as a matter of law do not support the decision.
- (n) The determination of the board of trustees shall be affirmed unless the court finds that the action of the board of trustees was:
- (i) In violation of constitutional or statutory provisions;
 - (ii) In excess of the statutory authority of the board;
 - (iii) Made upon unlawful procedure; or
 - (iv) Arbitrary, capricious or an abuse of discretion.
- (o) Record augmentation on appeal:
- (i) If, before the date set for any hearing at the district court, application is made to the court for leave to present additional evidence and it is shown to the satisfaction of the court that the additional evidence is material, relates to the validity of the board action and that there was good cause for failure to present it in the proceeding before the board, then the court may remand the matter to the board with direction that the board receive additional evidence and conduct additional fact-finding;
 - (ii) Any party desiring to augment the transcript or record may file a motion in the same manner and pursuant to the same procedure for augmentation of the record in appeals to the supreme court; and
 - (iii) The board may modify its action by reason of the additional evidence and shall file any modifications, new findings or decisions with the reviewing court.

6. To grant an employee's request for voluntary leave of absence. The board of trustees may delegate ongoing authority to grant an employee's request for voluntary leave of absence to the district's superintendent or other designee. Upon the superintendent or designee's granting of an employee's request for voluntary leave of absence, the board shall ratify or nullify the action at the next regularly scheduled board meeting.

7. To delegate to the superintendent or other designee the ongoing authority to place any employee on a period of involuntary leave of absence should the superintendent or designee believe that such action is in the best interest of the district. Upon the superintendent or designee's action to place a certificated employee on a period of involuntary leave of absence, the board shall ratify or nullify the action of the superintendent or designee at the next regularly scheduled meeting of the board or at a special meeting of the board should the next regularly scheduled meeting of the board not be within a period of twenty-one (21) days from the date of the action.

(a) Where there is a criminal court order preventing the certificated employee from being in the presence of minors or students, preventing the employee from being in the presence of any other adult individual employed at the school or detaining the employee in prison or jail, the certificated employee's involuntary leave of absence shall be without pay due to the certificated employee's inability to perform the essential functions of the employee's position. Without such a condition or situation, the involuntary leave of absence shall be with pay.

(i) During the period of involuntary leave of absence without pay, the salary of the certificated employee will be maintained in a district-managed account. Should the certificated employee return to the district for active employment subsequent to the removal or dismissal of the court order, acquittal or adjudication of innocence, the district shall remit the salary funds, less the cost incurred by the district for the substitute hired to replace the certificated employee. Further, should the certificated employee return to the district under the provisions established in this subsection, the district shall arrange to have the certificated employee credited with the public employee retirement system of Idaho (PERSI) for the certificated employee's time away from work during the period of leave of absence.

(ii) During the period of involuntary leave of absence, the district shall continue to pay the district's portion of monthly costs associated with the certificated employee's health insurance benefits. The assumption of this payment by the district shall not alter the certificated employee's financial obligations, if any, under the policy.

(b) Should there be dual court orders preventing more than one (1) employee from being in the presence of one (1) or more other employees, all employees subject to the court order shall be excluded from the school pursuant to subsection 7. (a) of this section.

(c) If the period of involuntary leave of absence is due to the district's need to conduct an investigation into the conduct of the certificated employee, and there are no related criminal investigation(s) and/or criminal charges of any nature pending, the administration shall complete its investigation within a period of sixty (60) working days. On or before the sixtieth working day, the administrative leave shall either cease and the certificated employee shall be returned to his position of employment or the administration shall advance a personnel recommendation to the board of trustees. If a recommendation is advanced, the involuntary leave of absence shall continue until such time as the district board has made its decision in regard to the personnel recommendation with such decision effectively concluding the involuntary leave of absence. If a related criminal investigation is

occurring and/or criminal charges are pending, the district shall not be bound to any limitation as to the duration of involuntary leave of absence. The timelines established in this section may be waived or modified by mutual agreement.

SECTION 2. That Section 33-514, Idaho Code, be, and the same is hereby amended to read as follows:

33-514. ISSUANCE OF ANNUAL CONTRACTS -- SUPPORT PROGRAMS -- CATEGORIES OF CONTRACTS -- OPTIONAL PLACEMENT. (1) The board of trustees shall establish criteria and procedures for the supervision and evaluation of certificated employees who are not employed on a renewable contract, as provided for in section 33-515, Idaho Code.

(2) There shall be three (3) categories of annual contracts available to local school districts under which to employ certificated personnel:

(a) A category 1 contract is a limited one-year contract as provided in section 33-514A, Idaho Code.

(b) A category 2 contract is for certificated personnel in the first and second years of continuous employment with the same school district. Upon the decision by a local school board not to reemploy the person for the following year, the certificated employee shall be provided a written statement of reasons for non-reemployment by no later than the first day of July. No property rights shall attach to a category 2 contract and therefore the employee shall not be entitled to a review by the local board of the reasons or decision not to reemploy.

(c) A category 3 contract is for certificated personnel during the third year of continuous employment by the same school district. 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 74-205 and 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 that 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 first day of July of each such year. If the board of trustees has decided not to reemploy the certificated employee, then the notice must contain a statement of reasons for such decision and the employee shall, upon request, be given the opportunity for an informal review of such decision by the board of trustees. The parameters of an informal review shall be determined by the local board.

(3) School districts hiring an employee who has been on renewable contract status with another Idaho district, or has out-of-state experience which would otherwise qualify the certificated employee for renewable contract status in Idaho, shall have the option to immediately grant renewable contract status, or to place the employee on a category 3 annual contract. Such employment on a category 3 contract under the provisions of this subsection may be for one (1), two (2) or three (3) years.

(4) There shall be a minimum of one (1) written evaluation in each of the annual contract years of employment, which shall be completed no later than May June 1 of each year. The evaluation shall include a minimum of two (2) documented observations, one (1) of which shall be completed prior to January 1 of each year. The requirement to provide at least one (1) written evaluation does not exclude additional evaluations that may be performed. No civil action for money damages shall arise for failure to comply with the provisions of this subsection.

SECTION 3. That Section 33-515, Idaho Code, be, and the same is hereby amended to read as follows:

33-515. ISSUANCE OF RENEWABLE CONTRACTS. (1) During the third full year of continuous employment by the same school district, including any specially chartered district, each certificated employee named in subsection (24) of section 33-1001, Idaho Code, and each school nurse and school librarian shall be evaluated for a renewable contract and shall, upon having been offered a contract for the next ensuing year, and upon signing and timely returning a contract for a fourth full year, be placed on a renewable contract status with said school district entitling such individual to the right to automatic renewal of contract, subject to the provisions included in this chapter, 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) At least once annually, the performance of each renewable contract certificated employee, school nurse, or school librarian shall be evaluated according to criteria and procedures established by the board of trustees in accordance with general guidelines approved by the state board of education. Such an evaluation shall be completed no later than May June 1 of each year. The evaluation shall include a minimum of two (2) documented observations, one (1) of which shall be completed prior to January 1 of each year.

(3) Any contract automatically renewed under the provisions of this section may be renewed for a shorter term, longer term or the same length of term as stated in the current contract and at a greater, lesser or equal salary as that stated in the current contract. Absent the board's application of a formal reduction in force, renewals of standard teacher contracts may be for a shorter term, longer term or the same length of term as stated in the current standard teacher contract and at a greater, lesser or equal salary, and shall be uniformly applied to all employees based upon the district's adopted salary schedule to the extent allowable in section 33-1004E, Idaho Code.

(a) Contracts issued pursuant to this section shall be issued on or before the first day of July each year.

(b) At the discretion of the board, the district may issue letters of intent for employment for the next ensuing school year to renewable contract status employees during May of each school year. Such letter of intent shall not state a specific duration of the contract or salary/benefits term for the next ensuing school year.

(c) Unless otherwise negotiated and ratified by both parties pursuant to sections 33-1271, et seq., Idaho Code, standard teacher renewals for terms shorter in length than that stated in the current standard contract of renewable certificated employees, should be considered and implemented only after the district has determined that the salary-based apportionment reimbursement that it estimates it will receive for the ensuing school year is less than the sum the district would otherwise be paying for salaries for certificated professional employees.

(4) Nothing in this section shall prevent the board of trustees from offering a renewed contract increasing the salary of any certificated person, or from reassigning an administrative employee to a nonadministrative position with appropriate reduction of salary from the preexisting salary level. In the event the board of trustees reassigns an administrative employee to a nonadministrative position, the board shall give written notice to the employee which that contains a statement of the reasons for the reassignment. The employee, upon written request to the board, shall be entitled to an informal review of that decision. The process and procedure for the informal review shall be determined by the local board of trustees.

(5) Before a board of trustees can determine not to renew for reasons of an unsatisfactory report of the performance of any certificated person whose contract would otherwise be automatically renewed, such person shall be entitled to a reasonable period of probation. This period of probation shall be preceded by a written notice from the board of trustees with reasons for such probationary period and with provisions for adequate supervision and evaluation of the person's performance during the probationary period. Such period of probation shall not affect the person's renewable contract status. Consideration of probationary status for certificated personnel is consideration of the status of an employee within the meaning of section 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, the action of the board shall be consistent with the procedures specified in section 33-513(5), Idaho Code, and furthermore, the board shall notify the employee in writing whether there is just and reasonable cause not to renew the contract or to reduce the salary of the affected employee, and if so, what reasons it relied upon in that determination.

(7) If the board of trustees takes action after the declaration of a financial emergency pursuant to section 33-522, Idaho Code, and such action is directed at more than one (1) certificated employee, and if mutually agreed to by both parties, a single informal review shall be conducted. Without mutual consent of both parties, the board of trustees shall use the following procedure to conduct a single due process hearing within sixty-seven (67) days of the declaration of financial emergency pursuant to section 33-522(2), Idaho Code, or on or before June 22, whichever shall occur first:

(a) The superintendent or any other duly authorized administrative officer of the school district may recommend the change in the length of the term stated in the current contract or reduce the salary of any certificated employee by filing with the board of trustees written notice specifying the purported reasons for such changes.

(b) Upon receipt of such notice, the board of trustees, acting through its duly authorized administrative official, shall give the affected employees written notice of the reductions and the recommendation of the change in the length of the term stated in the current contract or the reduction of salary, along with written notice of a hearing before the board of trustees prior to any determination by the board of trustees.

(c) The hearing shall be scheduled to take place not less than six (6) days nor more than fourteen (14) days after receipt of the notice by the employees. The date provided for the hearing may be changed by mutual consent.

(d) The hearing shall be open to the public.

(e) All testimony at the hearing shall be given under oath or affirmation. Any member of the board, or the clerk of the board of trustees, may administer oaths to witnesses or affirmations by witnesses.

(f) The employees may be represented by legal counsel and/or by a representative of a local or state education association.

(g) The chairman of the board of trustees or the designee of the chairman shall conduct the hearing.

(h) The board of trustees shall cause an electronic record of the hearing to be made or shall employ a competent reporter to take stenographic or stenotype notes of all the testimony at the hearing. A transcript of the hearing shall be provided at cost by the board of trustees upon request of the employee.

(i) At the hearing, the superintendent or other duly authorized administrative officer shall present evidence to substantiate the reduction contained in such notice.

(j) The employees may produce evidence to refute the reduction. Any witness presented by the superintendent or by the employees shall be subject to cross-examination. The board of trustees may also examine witnesses and be represented by counsel.

(k) The affected employees may file written briefs and arguments with the board of trustees within three (3) days after the close of the hearing or such other time as may be agreed upon by the affected employees and the board of trustees.

(l) Within seven (7) days following the close of the hearing, the board of trustees shall determine and, acting through its duly authorized administrative official, shall notify the employees in writing whether the evidence presented at the hearing established the need for the action taken.

The due process hearing pursuant to this subsection shall not be required if the board of trustees and the local education association reach an agreement on issues agreed upon pursuant to section 33-522(3), Idaho Code.

(8) If the board of trustees, for reasons other than unsatisfactory service, for the ensuing contract year, determines to change the length of the term stated in the current contract, reduce the salary or not renew the contract of a certificated person whose contract would otherwise be automatically renewed, nothing herein shall require a probationary period.

(9) If the board of trustees, for reasons other than unsatisfactory service, for the ensuing contract year, determines to change the length of the term stated in the current contract or reduce the salary of a certificated person whose contract would otherwise be automatically renewed, nothing herein shall require any individualized due process proceeding. In such circumstance, the board shall hold a single informal review for all impacted employees. The process and procedure for the single informal review shall be determined by the local board of trustees.

Approved March 24, 2016

CHAPTER 192
(H.B. No. 514)

AN ACT

RELATING TO EDUCATION; AMENDING TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 58, TITLE 33, IDAHO CODE, TO PROVIDE THE IDAHO SCHOOL SAFETY AND SECURITY ACT, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE INTENT, TO DEFINE A TERM, TO PROVIDE THE OFFICE OF SCHOOL SAFETY AND SECURITY, TO PROVIDE THE IDAHO SCHOOL SAFETY AND SECURITY ADVISORY BOARD AND TO PROVIDE POWERS AND DUTIES OF THE IDAHO SCHOOL SAFETY AND SECURITY ADVISORY BOARD; AND AMENDING SECTION 67-2601A, IDAHO CODE, TO PROVIDE A CODE REFERENCE.

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

SECTION 1. 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 58, Title 33, Idaho Code, and to read as follows:

CHAPTER 58
IDAHO SCHOOL SAFETY AND SECURITY ACT

33-5801. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho School Safety and Security Act."

33-5802. LEGISLATIVE INTENT. It is the intent of the legislature that the purpose of this chapter is to:

- (1) Promote the safety and security of the students attending the public educational institutions of the state;
- (2) Provide recommendations, systems and training to assist public educational institutions at all levels for the safety and security of students;
- (3) Enhance the safety and security resources available to public educational institutions;
- (4) Ensure that periodic security assessments of statewide public educational institutions are conducted and reported;
- (5) Ensure that surveys are conducted and research information is reported to appropriate parties;
- (6) Promote the use of technical methods, devices and improvements to address school security;
- (7) Encourage the recognition of security design to be incorporated in future construction or renovation of public educational institutions; and
- (8) Provide written reports of security assessments to appropriate school administrative authorities.

33-5803. DEFINITION. For the purposes of this chapter, "public educational facility" means all structures and buildings existing now or constructed in the future that are owned, leased or used by public educational institutions, which include public colleges, public community colleges, public universities, public school districts, public charter schools, or a school for children in any grades kindergarten through 12 that is operated by the state of Idaho receiving state funding.

33-5804. OFFICE OF SCHOOL SAFETY AND SECURITY. (1) There is hereby established in the Idaho division of building safety the office of school safety and security. The administrator of the division of building safety may hire a manager of the office of school safety and security who shall be responsible for the performance of the regular administrative functions of

the office and other duties as the administrator may direct. The manager of the office of school safety and security shall be a nonclassified employee. The administrator of the division of building safety may employ persons in addition to the manager in other positions or capacities as he or she deems necessary to fulfill the responsibilities of the office of school safety and security as set forth in this section. The administrator shall provide an office, office equipment and facilities as may be reasonably necessary for the proper performance of the duties of the office manager and other office personnel.

(2) The administrator of the division of building safety and the manager and other personnel of the office of school safety and security may enter all public educational facilities in this state at reasonable times to conduct annual assessments for consistency with the school safety and security guidelines developed by the Idaho school safety and security advisory board. To the extent possible, such assessments should occur simultaneously with inspections conducted pursuant to section 39-8008, Idaho Code. The office of school safety and security shall prepare a written report for each security assessment it conducts. At a minimum, such reports shall include any safety or security vulnerabilities found in the subject school and recommendations for remedying such vulnerabilities. The office shall provide a copy of the report to the local education agency and to the school principal or president. The office shall also prepare an annual report, a copy of which shall be submitted to the state board of education and to the Idaho school safety and security advisory board each year.

(3) Upon request of any public educational institution, the office of school safety and security shall provide training and technical assistance on best practices and resources for school safety and security as set forth in the guidelines established by the Idaho school safety and security advisory board.

(4) The Idaho division of building safety may receive grant moneys on behalf of the office of school safety and security to carry out the responsibilities of the office.

(5) On July 1 of each year, or as soon as practicable, the state controller shall transfer three hundred thousand dollars (\$300,000) from the public school income fund to the division of building safety's miscellaneous revenue fund 0349 for the purposes of this section.

33-5805. IDAHO SCHOOL SAFETY AND SECURITY ADVISORY BOARD. (1) There is hereby established in the Idaho division of building safety the Idaho school safety and security advisory board. The advisory board shall consist of thirteen (13) members as follows:

- (a) Four (4) members appointed by the governor as follows:
 - (i) One (1) parent of a student who attends an Idaho public school;
 - (ii) One (1) teacher who teaches in an Idaho public school;
 - (iii) One (1) representative of a local school board; and
 - (iv) One (1) representative of school superintendents;
- (b) One (1) representative from the office of the state superintendent of public instruction;
- (c) One (1) representative from the state board of education;
- (d) One (1) representative from the Idaho state police;
- (e) One (1) representative from the Idaho chiefs of police association;
- (f) One (1) representative from the Idaho sheriffs' association;
- (g) One (1) representative from the Idaho bureau of homeland security;
- (h) One (1) representative from the Idaho fire chiefs association; and
- (i) Two (2) representatives from the state legislature that shall include one (1) member from the senate appointed by the president pro tempore of the senate and one (1) member from the house of representatives appointed by the speaker of the house of representatives.

- (2) The members of the advisory board shall serve the following terms:
 - (a) The gubernatorial appointees shall serve terms of three (3) years.
 - (b) All other members shall serve terms of two (2) years.
- (3) A vacancy on the advisory board shall be filled in the same manner as the original appointment and for the balance of the unexpired term.
- (4) The advisory board shall appoint a chairperson from among its members for a term certain.
- (5) The members of the advisory board shall be compensated as provided in section 59-509(b), Idaho Code.
- (6) The advisory board shall meet at least annually, but may meet more frequently subject to the call of the chairperson.

33-5806. POWERS AND DUTIES OF THE IDAHO SCHOOL SAFETY AND SECURITY ADVISORY BOARD. The Idaho school safety and security advisory board shall:

- (1) Develop, annually review and modify, if necessary, school safety and security guidelines for the office of school safety and security to use in conducting its annual assessments, training and technical assistance pursuant to section 33-5804, Idaho Code;
- (2) Regularly assess safety and security resources that may be used in public educational facilities; and
- (3) On or before February 1 of each year, report to the legislature and to the governor on the status of school safety and security in the Idaho public educational facilities.

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

67-2601A. DIVISION OF BUILDING SAFETY. (1) The division of building safety will be headed by an administrator appointed by and serving at the will of the governor. The division administrator, deputy administrators and 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 43, title 39, Idaho Code, relating to the building code board; chapter 40, title 39, Idaho Code, relating to manufactured homes; chapter 43, 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; chapter 58, title 33, Idaho Code, relating to Idaho school safety and security; and chapter 86, title 39, Idaho Code, relating to elevator safety.

(3) The administrator shall 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.

(5) 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.

(6) 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.

(7) The administrator shall have the authority to employ individuals, make expenditures, enter into contracts, require reports, make investigations, travel, and take other actions deemed necessary.

Approved March 24, 2016

CHAPTER 193
(H.B. No. 512)

AN ACT

RELATING TO COMMUNITY COLLEGES; AMENDING CHAPTER 21, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-2104A, IDAHO CODE, TO PROVIDE FOR COMMUNITY COLLEGE TRUSTEE ZONES AND RELATED PROVISIONS; AMENDING SECTION 33-2106, IDAHO CODE, TO REVISE PROVISIONS REGARDING TRUSTEES OF COMMUNITY COLLEGE DISTRICTS AND TO PROVIDE AN APPEALS PROCESS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 21, 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 33-2104A, Idaho Code, and to read as follows:

33-2104A. COMMUNITY COLLEGE TRUSTEE ZONES. (1) Each existing community college district shall be divided into five (5) trustee zones. Each trustee position on the board shall be designated to a zone so that each trustee zone contains one (1) designated trustee position.

(2) The boundaries of the several trustee zones in each existing community college district shall be drawn so that the five (5) zones are as nearly equal in population as practicable. If a community college district is situated within two (2) or more counties, and any one (1) of the counties has sufficient population to warrant at least one (1) zone, then the boundaries of a trustee zone shall be located wholly within the boundaries of such county.

(3) A proposal to redefine the boundaries of trustee zones of a community college district shall be initiated by its board of trustees at the first meeting following the report of the decennial census or following the electors' approval of the addition of territory pursuant to section 33-2105, Idaho Code. The board of trustees shall submit the proposal to the state board of education within one hundred twenty (120) days following the decennial census or election. The proposal shall include a legal description of each proposed trustee zone, a map of the district showing how each proposed trustee zone would appear and the approximate population each zone would have should the proposal to change the boundaries of the trustee zones become effective.

(4) Within sixty (60) days after receipt of a proposal submitted pursuant to subsection (3) of this section, the state board of education may approve or disapprove the proposal to redefine the boundaries of the trustee zones and shall give written notice of its decision to the board of trustees of the district wherein the change is proposed. If the state board of education disapproves a proposal, then it shall provide the board of trustees with a written explanation setting forth its reasons for disapproval. Within forty-five (45) days of receipt of a disapproval, the board of trustees shall submit a revised proposal to the state board of education. If the state board of education approves the proposal, then it shall notify the board of trustees, the trustee zones shall be changed in accordance with

the proposal and a copy of the legal description of each trustee zone and map of the district showing how each trustee zone will appear shall be filed by the board of trustees with the county clerk of the home county.

(5) At the next regular meeting of the board of trustees following the state board's approval of a proposal submitted pursuant to subsection (4) of this section, the community college board of trustees shall appoint from its membership a trustee for each new zone to serve as trustee until that incumbent trustee's term expires. If the current board membership includes two (2) or more incumbent trustees who reside in the same trustee zone, then the following applies:

(a) The position on the board held by the trustee with the greatest amount of time remaining in such trustee's term shall be the position on the board designated to the zone wherein such trustee resides.

(b) If there is no difference in the amount of time remaining in the incumbents' terms, then the position on the board held by the most senior trustee shall be designated to the zone wherein such trustee resides.

(c) If there is no difference in seniority among the incumbents, then a majority vote of the sitting board, excluding the incumbents subject to the vote, shall determine which incumbent trustee shall be designated to the zone wherein such trustees reside and the remaining trustee or trustees shall be designated to the position or positions on the board in the zone or zones wherein no incumbent trustee resides.

(6) Any incumbent trustee whose position on the board has been designated to a zone other than the zone in which such trustee resides may complete their term; however, when the position is next scheduled to be placed on the ballot, only persons residing in the zone to which the position has been designated shall be eligible to run for the position.

(7) Notwithstanding the time requirements set forth in this section, on or before July 1, 2016, the board of trustees of each community college district formed before the effective date of this act shall obtain a state board of education-approved proposal to divide the district into five (5) trustee zones. Trustee terms due for the 2016 election shall be subject to the zoning and board position requirements set forth in this section.

SECTION 2. That Section 33-2106, Idaho Code, be, and the same is hereby amended to read as follows:

33-2106. TRUSTEES OF COMMUNITY COLLEGE DISTRICTS. (1) The board of trustees of each community college district shall consist of five (5) school electors residing who shall reside in the district a different trustee zone from each other and who shall be appointed or elected as herein provided in this section.

(a) Immediately following the establishment of a new community college district, the state board of education shall divide the district into five (5) trustee zones, which shall be as nearly equal in population as practicable. If a community college district is situated within two (2) or more counties, and any one (1) of the counties has sufficient population to warrant at least one (1) zone, then the boundaries of a trustee zone shall be located wholly within the boundaries of such county. The state board shall also appoint the members of the first board, who shall serve until the election and qualification of their successors.

(b) At the first election of trustees after the creation of a district, five (5) trustees shall be elected: two (2) for terms of two (2) years each, and three (3) for terms of four (4) years each. Thereafter the successors of persons so elected shall be elected for terms of four (4) years.

(c) Excluding any first election of trustees after the creation of a district, at any other election of trustees held in 2008, and in each trustee election thereafter, trustees shall be elected to terms of four

(4) years. If more than two (2) trustee positions are eligible for election in 2008, one (1) trustee shall be elected to a term of four (4) years and two (2) trustees shall be elected to a term of six (6) years. Thereafter the successors of persons so elected in 2008 shall be elected for terms of four (4) years.

(d) The expiration of any term shall be at the regular meeting of the trustees next following the election for the successor terms.

(2) Elections of trustees of community college districts shall be biennially, in even-numbered years, and shall be held on a date authorized in section 34-106, Idaho Code. Vacancies on the board of trustees shall be filled by appointment by the remaining members, but if by reason of vacancies there remain on the board less than a majority of the required number of members, appointment to fill such vacancies shall be made by the state board of education. Any person so appointed must reside in the trustee zone where the vacancy occurs and shall serve until the next trustee election, at which time his successor shall be elected for the unexpired term. The trustees shall take and subscribe the oath of office required in the case of state officers and said oath shall be filed with the secretary of state.

(3) Notice of the election, the conduct thereof, the qualification of electors and the canvass of returns shall be as prescribed in chapter 14, title 34, Idaho Code.

(4) ~~The person or persons, equal in number to the number of trustees to be elected for regular or unexpired terms, receiving the largest number of votes shall be declared elected~~ All eligible electors within a community college district may vote for candidates in each and every zone. An individual who is a candidate for a specific zone of the community college district must reside in that same specific zone, and the candidate in each zone receiving the largest number of votes from the district shall be declared elected. An individual shall be a candidate for a specific position of the board and each candidate must declare which position he seeks on the board of trustees. If it be necessary to resolve a tie between two (2) or more persons, the board of trustees shall determine by lot which thereof shall be declared elected. The clerk of the board shall promptly notify any person by mail of his election, enclosing a form of oath to be subscribed by him as herein provided.

(5) When elections held pursuant to this section coincide with other elections held by the state of Idaho or any subdivision thereof, or any municipality or school district, the board of trustees may make agreement with the body holding such election for joint boards of election and the payment of fees and expenses of such boards of election on such proportionate basis as may be agreed upon.

(6) At its first meeting following the appointment of the first board of trustees, and at the first regular meeting following any community college trustee election, the board shall organize, and shall elect one (1) of its members chairman, one (1) a vice-chairman; and shall elect a secretary and a treasurer, who may be members of the board; or one (1) person to serve as secretary and treasurer, who may be a member of the board.

(7) The provisions of sections 67-6601 through 67-6616, Idaho Code, and sections 67-6623 through 67-6630, Idaho Code, are hereby made applicable to all community college trustee elections. Provided however, that the county clerk shall stand in place of the secretary of state and the county prosecutor shall stand in place of the attorney general. Any report or filing required to be filed by or for a candidate by such sections of Idaho Code shall be filed with the county clerk of the county where such candidate resides.

(8) The board shall set a given day of a given week in each month as its regular meeting time. Three (3) members of the board shall constitute a quorum for the transaction of official business.

(9) The authority of trustees of community college districts shall be limited in the manner prescribed in section 33-507, Idaho Code.

(10) Any decision of the state board of education issued pursuant to chapter 21, title 33, Idaho Code, may be appealed to the district court of any county in which the district or proposed district lies or shall lie. The pleadings and other papers shall be filed not more than sixty (60) days after notice of the order appealed and service of two (2) copies thereof shall be made upon the state board of education.

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 24, 2016

CHAPTER 194
(H.B. No. 509)

AN ACT

RELATING TO OIL AND GAS; AMENDING SECTION 47-306, IDAHO CODE, TO PROVIDE THAT THE IDAHO GEOLOGICAL SURVEY SHALL PRESERVE CERTAIN SAMPLES AND RECORDS, TO PROVIDE FOR THE USE OF SUCH SAMPLES AND RECORDS AND TO PROVIDE FOR CERTAIN REPORTS OF DETERMINATIONS AND IDENTIFICATIONS SPECIFIC TO THE SAMPLES AND RECORDS; AMENDING SECTION 47-307, IDAHO CODE, TO AUTHORIZE SPECIFIED USES OF INFORMATION DERIVED FROM SAMPLES AND RECORDS DEPOSITED WITH THE IDAHO GEOLOGICAL SURVEY, TO PREVENT THE DISCLOSURE OF INFORMATION UNDER CERTAIN CONDITIONS, TO PROVIDE THAT THE IDAHO GEOLOGICAL SURVEY SHALL SHARE CERTAIN INFORMATION WITH THE IDAHO OIL AND GAS CONSERVATION COMMISSION AND THE DEPARTMENT OF LANDS AND TO PROVIDE THAT SUCH ACTION SHALL NOT RENDER THE SHARED INFORMATION SUBJECT TO DISCLOSURE UNDER SPECIFIED LAW; AND AMENDING SECTION 47-319, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES, TO PROVIDE FOR THE SHARING OF CERTAIN RECORDS AND INFORMATION BETWEEN THE OIL AND GAS CONSERVATION COMMISSION, THE DEPARTMENT OF LANDS AND THE IDAHO GEOLOGICAL SURVEY, TO PROVIDE THAT SUCH ACTION SHALL NOT RENDER THE SHARED INFORMATION SUBJECT TO DISCLOSURE UNDER SPECIFIED LAW, TO PROVIDE FOR THE SHARING OF CERTAIN INFORMATION WITH OTHER STATE AGENCIES IF AUTHORIZED BY LAW AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 47-306, Idaho Code, be, and the same is hereby amended to read as follows:

47-306. PRESERVATION AND USE OF SAMPLES AND RECORDS OF LOGS -- CLASSIFICATION OF ROCKS, FOSSILS, AND MINERALS -- REPORTS TO AUTHORIZED PERSONS OF DETERMINATIONS AND IDENTIFICATIONS. The Idaho geological survey shall preserve orderly records of logs filed with it and shall determine and record and classify rocks shown by samples, identify fossils and minerals, and, on request, shall supply to the properly authorized person, connected with the drilling operations from which logs and samples are received a report of such determinations and identifications The Idaho geological survey shall preserve any samples or records deposited with it pertaining to mineral, oil or gas resources, exploration or production on lands within the state. The Idaho geological survey may use such samples or records to assist with mineral and petroleum assessments and characterization of geologic resources as part of its mission and directive to determine the geology, hydrogeology, geologic hazards, and mineral, oil and gas resources of the state. On request, the Idaho geological survey shall supply to the owner

or owners of the samples or records a report of any such determinations and identifications specific to the samples or records provided by the owner or owners of the samples or records.

SECTION 2. That Section 47-307, Idaho Code, be, and the same is hereby amended to read as follows:

47-307. USE OF INFORMATION. The Idaho geological survey is hereby authorized to utilize in its study of regional rock structures, mineral deposits, and underground water resources, the information so derived. The Idaho geological survey is hereby authorized to utilize in its study of regional geology, mineral deposits, industrial minerals and aggregates, oil and gas resources, and groundwater resources, in its dissemination of geological and mineral data, and in its publication of reports and maps on the geology and mineral resources of the state, any information derived from samples and records deposited with it. The Idaho geological survey shall not disclose any record, or any information contained therein, if the record or information is exempt from disclosure under the Idaho public records act, chapter 1, title 74, Idaho Code, or is subject to a confidentiality agreement between the Idaho geological survey and the owner or owners of the records or information. Should a confidentiality or data-sharing agreement exist, the terms of that agreement shall control any disclosure by the Idaho geological survey. For information that becomes publicly available or that is not exempt from disclosure under the Idaho public records act, the existence of a confidentiality or data-sharing agreement will not extend the period of confidentiality beyond that available under the Idaho public records act. Subject to any confidentiality or data-sharing agreement, the Idaho geological survey is authorized to share such records or information obtained under section 47-306, Idaho Code, or information derived therefrom, with the Idaho oil and gas conservation commission and the Idaho department of lands, in furtherance of the respective authorized functions of the commission and the Idaho department of lands. The sharing of information between the Idaho geological survey, the oil and gas conservation commission and the Idaho department of lands shall not render the shared information subject to disclosure to other persons under the Idaho public records act.

SECTION 3. That Section 47-319, Idaho Code, be, and the same is hereby amended to read as follows:

47-319. LAND SUBJECT TO ACT -- AUTHORITY OF COMMISSION. (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 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. 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~~ 74-107, 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 1~~, title 74, 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~~ saltwater and ~~oil-field 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.

(9) The commission is authorized to share such records or information with the Idaho geological survey. When any such record or information is exempt from disclosure under the Idaho public records act, section 74-101, et seq., Idaho Code, the sharing of such record or information between the oil and gas conservation commission, the Idaho department of lands, and the Idaho geological survey shall not render the shared information subject to disclosure to other persons under the Idaho public records act, section 74-101, et seq., Idaho Code. Notwithstanding the foregoing, nothing in this section shall be construed to limit the sharing of such records or information by the oil and gas commission and the Idaho department of lands with other state agencies, when authorized by law.

Approved March 24, 2016

CHAPTER 195
(H.B. No. 504)

AN ACT

RELATING TO PUBLIC DEFENSE; AMENDING SECTION 19-850, IDAHO CODE, TO REVISE POWERS AND DUTIES OF THE PUBLIC DEFENSE COMMISSION, TO PROVIDE THAT THE COMMISSION SHALL HAVE CERTAIN DUTIES AND TO PROVIDE THAT THE COMMISSION SHALL HAVE CERTAIN POWERS; AMENDING SECTION 19-851, IDAHO CODE, TO DEFINE TERMS; AMENDING SECTION 19-853, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 19-862, IDAHO CODE, TO REVISE A PROVISION REGARDING APPROPRIATION FOR INDIGENT DEFENSE PROVIDERS AND TO PROVIDE THAT THE BOARD OF COUNTY COMMISSIONERS IS NOT REQUIRED TO EXPEND ITS FULL LOCAL SHARE UNDER CERTAIN CONDITIONS; AMENDING CHAPTER 8, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-862A, IDAHO CODE, TO REQUIRE COMPLIANCE WITH INDIGENT DEFENSE STANDARDS, TO PROVIDE FOR INDIGENT DEFENSE GRANTS, TO PROVIDE APPLICATION PROCEDURES FOR INDIGENT DEFENSE GRANTS AND TO PROVIDE PROCEDURES FOR NONCOMPLIANCE WITH INDIGENT DEFENSE STANDARDS; AND AMENDING SECTION 19-864, IDAHO CODE, TO REVISE REPORTING REQUIREMENTS.

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

SECTION 1. That Section 19-850, Idaho Code, be, and the same is hereby amended to read as follows:

19-850. POWERS AND DUTIES OF THE STATE PUBLIC DEFENSE COMMISSION. (1) The state public defense commission shall:

(a) Promulgate rules in accordance with the provisions of chapter 52, title 67, Idaho Code, establishing the following:

(i) Training and continuing legal education requirements for defending attorneys, which shall promote competency and consistency in case types including, but not limited to, criminal, juvenile,

capital, abuse and neglect, post-conviction, civil commitment, capital and civil criminal contempt; and

(ii) Uniform data reporting requirements and model forms for the annual reports submitted pursuant to section 19-864, Idaho Code. The data reported, which shall include, but not be limited to, caseload, workload and expenditures;

(iii) Model contracts and core requirements for contracts between counties and private attorneys for the provision of indigent defense services, which shall include, but not be limited to, compliance with indigent defense standards;

(iv) Procedures and forms by which counties may apply to the commission, pursuant to section 19-862A, Idaho Code, for funds to be used to bring their delivery of indigent defense services into compliance with applicable indigent defense standards;

(v) Procedures for administrative review and fair hearings in accordance with the Idaho administrative procedure act, which shall include, but not be limited to, providing for a neutral hearing officer in such hearings;

(vi) Procedures for the oversight, implementation, enforcement and modification of indigent defense standards so that the right to counsel of indigent persons, as provided in section 19-852, Idaho Code, is constitutionally delivered to all indigent persons in this state; and

(vii) Standards for defending attorneys that utilize, to the extent reasonably practicable taking into consideration factors such as case complexity, support services and travel, the following principles:

1. The delivery of indigent defense services should be independent of political and judicial influence, though the judiciary is encouraged to contribute information and advice concerning the delivery of indigent defense services.

2. Defending attorneys should have sufficient time and private physical space so that attorney-client confidentiality is safeguarded during meetings with clients.

3. Defending attorneys' workloads should permit effective representation.

4. Economic disincentives or incentives that impair defending attorneys' ability to provide effective representation should be avoided.

5. Defending attorneys' abilities, training and experience should match the nature and complexity of the cases in which they provide services including, but not limited to, cases involving complex felonies, juveniles and child protection.

6. The defending attorney assigned to a particular case should, to the extent reasonably practicable, continuously oversee the representation of that case and personally appear at every substantive court hearing.

7. There should be reasonable equity between defending attorneys and prosecuting attorneys with respect to resources, staff and facilities.

8. Defending attorneys should obtain continuing legal education relevant to their indigent defense cases.

9. Defending attorneys should be regularly reviewed and supervised for compliance with indigent defense standards and, if applicable, compliance with indigent defense standards as set forth in contractual provisions.

10. Defending attorneys should identify and resolve conflicts of interest in conformance with the Idaho rules of

professional conduct and other applicable constitutional standards.

Violation of or noncompliance with the principles listed in this subparagraph does not constitute ineffective assistance of counsel under the constitutions of the United States or the state of Idaho and does not otherwise constitute grounds for post-conviction relief.

(b) On or before January 20, 2015, and by January 20 of each year thereafter as deemed necessary by the commission, make recommendations to the Idaho legislature for legislation on public defense system issues including, but not limited to:

~~(i) Core requirements for contracts between counties and private attorneys for the provision of indigent defense services and proposed model contracts for counties to use;~~

~~(ii) Qualifications and experience standards for the public defender and defending attorneys;~~

~~(iii) Enforcement mechanisms; and~~

~~(ivii) Funding issues including, but not limited to, formulas for the calculation of local shares and state indigent defense grants~~

~~1. Training and continuing legal education for defending attorneys;~~

~~2. Data collection and reporting efforts; and~~

~~3. Conflict cases.~~

(c) Review indigent defense providers and defending attorneys to evaluate compliance with indigent defense standards and the terms of state indigent defense grants.

(d) Notwithstanding the provisions of paragraph (a) (iv) of this subsection, establish temporary procedures and model forms by which counties may apply to the commission for state indigent defense grants pursuant to section 19-862A, Idaho Code, to be utilized until rules promulgated pursuant to paragraph (a) (iv) of this subsection are in full force and effect. Such temporary procedures shall not be subject to administrative or judicial review.

(e) Hold at least one (1) meeting in each calendar quarter.

(2) The state public defense commission may:

(a) Hire an executive director who shall be responsible for the performance of the regular administrative functions of the commission and other duties as the commission may direct. The executive director shall be a nonclassified state employee and shall be compensated as determined by the commission.

(b) Employ persons in addition to the executive director in other positions or capacities as it deems necessary to the proper conduct of commission business and to the fulfillment of the commission's responsibilities. The employees of the commission other than the executive director shall be classified employees and shall receive as compensation an annual salary payable on regular pay periods, the amount of which shall be determined by the commission.

(c) Provide an office, office equipment and facilities as may be reasonably necessary for the proper performance of its duties or the duties of the executive director and other personnel.

(d) Provide training and continuing legal education for indigent defense providers and defending attorneys in order to assist them in satisfying requirements promulgated pursuant to subsection (1) (a) (i) of this section, and use moneys received from a grant or trust or otherwise received and appropriated to provide such training and continuing legal education.

(e) Establish procedures by which indigent defense providers may apply to the commission for funds to be used for extraordinary litigation

costs including, but not limited to, expert witnesses, evidence testing and investigation, but not including expenses associated with capital crimes.

(f) Hire private counsel to represent the commission in hearings held in accordance with the Idaho administrative procedure act and the rules promulgated pursuant to subsection (1) (a) (v) of this section.

SECTION 2. That Section 19-851, Idaho Code, be, and the same is hereby amended to read as follows:

19-851. RIGHT TO REPRESENTATION BY COUNSEL -- DEFINITIONS. In this act, the term:

(1) "Commission" means the state public defense commission as created pursuant to section 19-849, Idaho Code;

(2) "Defending attorney" means any attorney employed by the office of public defender, contracted by the county an indigent defense provider or otherwise assigned to represent adults or juveniles at public expense;

(23) "Detain" means to have in custody or otherwise deprive of freedom of action;

(34) "Expenses," when used with reference to representation under this act, includes the expenses of investigation, other preparation and trial;

(5) "Indigent defense provider" means any agency, entity, organization or person selected by a board of county commissioners in accordance with section 19-859, Idaho Code, or a designee of the commission if the commission's actions to remedy specific deficiencies pursuant to section 19-862A(11) (b), Idaho Code, involve the direct provision of indigent defense services, as a means to provide for the representation of indigent persons and other individuals who are entitled to be represented by an attorney at public expense;

(6) "Indigent defense standard" means any rule promulgated by the commission pursuant to section 19-850(1) (a), Idaho Code;

(47) "Indigent person" means a person who, at the time his need is determined pursuant to section 19-854, Idaho Code, is unable to provide for the full payment of an attorney and all other necessary expenses of representation;

(8) "Local share" means the benchmark figure calculated by the commission to determine the minimum amount of county funding that shall be maintained by a county and to determine the award amount of state indigent defense grants for which a county may be eligible pursuant to section 19-862A, Idaho Code. For any given county fiscal year, a county's local share shall be the median of the annual amount in county funds expended by that county for indigent defense during each of the first three (3) of the preceding five (5) county fiscal years, as certified by the county clerk. In calculating this amount, county indigent defense expenditures shall not include:

(a) Amounts received from the public defense commission; and

(b) Amounts expended for capital cases by those counties participating in the capital crimes defense program in excess of premiums and deductibles required by guidelines approved by the Idaho capital crimes defense fund board of directors;

(59) "Serious crime" means any offense the penalty for which includes the possibility of confinement, incarceration, imprisonment or detention in a correctional facility, regardless of whether actually imposed;

(10) "State indigent defense grant" means the state funding a county may be awarded pursuant to section 19-862A, Idaho Code.

SECTION 3. That Section 19-853, Idaho Code, be, and the same is hereby amended to read as follows:

19-853. DUTY TO NOTIFY ACCUSED OR DETAINED OF RIGHT TO COUNSEL. (1) If a person who is being detained by a law enforcement officer, or who is con-

fined or who is the subject of hospitalization proceedings pursuant to section 66-322, 66-326, 66-329, 66-404 or 66-406, Idaho Code, or who is under formal charge of having committed, or is being detained under a conviction of, a serious crime, is not represented by an attorney under conditions in which a person having his own counsel would be entitled to be so represented, the law enforcement officers concerned, upon commencement of detention, or the court, upon formal charge or hearing, as the case may be, shall:

(a) Clearly inform him of his right to counsel and of the right of an indigent person to be represented by an attorney at public expense; and

(b) If the person detained or charged does not have an attorney, notify the ~~defending attorney~~ indigent defense provider or trial court concerned, as the case may be, that he is not so represented. As used in this subsection, the term "commencement of detention" includes the taking into custody of a probationer.

(2) Upon commencement of any later judicial proceeding relating to the same matter including, but not limited to, preliminary hearing, arraignment, trial, any post-conviction proceeding or post-commitment proceeding, the presiding officer shall clearly inform the person so detained or charged of his right to counsel and of the right of an indigent person to be represented by an attorney at public expense. Provided, the appointment of an attorney at public expense in uniform post-conviction procedure act proceedings shall be in accordance with section 19-4904, Idaho Code.

(3) If a court determines that the person is entitled to be represented by an attorney at public expense, it shall promptly notify the ~~defending attorney~~ indigent defense provider.

(4) Upon notification by the court or assignment under this section, the ~~defending attorney~~ indigent defense provider shall represent the person with respect to whom the notification is made.

SECTION 4. That Section 19-862, Idaho Code, be, and the same is hereby amended to read as follows:

19-862. APPROPRIATION FOR PUBLIC DEFENDER -- PRIVATE CONTRIBUTIONS. (1) The board of county commissioners of each county shall annually appropriate enough money to ~~administer fund the program of representation~~ indigent defense provider that it has elected selected under section 19-859, Idaho Code, and, except as provided in subsection (2) of this section, shall maintain not less than its local share.

(2) The board of county commissioners is not required to expend its full local share if it can comply with indigent defense standards for less than that share.

(3) If the board of county commissioners of a county elects to establish and maintain an office of public defender or a joint office of public defender, the county may accept private contributions toward the support of the office.

SECTION 5. That Chapter 8, 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 19-862A, Idaho Code, and to read as follows:

19-862A. COMPLIANCE -- INDIGENT DEFENSE GRANTS. (1) All counties, indigent defense providers and defending attorneys shall cooperate and participate with the commission in the review of their indigent defense services.

(2) On or before August 1, 2016, and by May 1 of each year thereafter, each county may submit to the commission an application for a state indigent defense grant that shall include a plan that specifically addresses how indigent defense standards shall be met and, if applicable under subsection (11) (a) of this section, how any deficiencies previously identified by the

commission will be cured in the upcoming county fiscal year. The application shall also include a cost analysis that shall specifically identify the amount of funding in excess of the applicable local share, if any, necessary to allow the county to successfully execute its plan. In the event the commission has not yet promulgated any indigent defense standards, or the commission determines that the county can successfully execute its plan without exhausting the entirety of the grant for which it may be eligible, an application submitted pursuant to this section may request funding to be used for other improvements to its delivery of indigent defense services. Such other improvements may include, but are not limited to, funding for investigation costs, witness expenses and other extraordinary litigation costs.

(3) The amount of a state indigent defense grant shall not exceed fifteen percent (15%) of the county's local share for said county fiscal year or twenty-five thousand dollars (\$25,000), whichever is greater. If a county elects to join with the board of county commissioners of one (1) or more other counties within the same judicial district to establish and maintain a joint office of public defender pursuant to section 19-859(2), Idaho Code, each participating county shall be eligible for an additional twenty-five thousand dollars (\$25,000) per year. The maximum amount of a state indigent defense grant shall remain in effect until July 1, 2019, unless otherwise addressed by the legislature prior to that date.

(4) The commission shall approve an application submitted under subsection (2) of this section, in an amount deemed appropriate by the commission, if the application:

(a) Includes a plan that is necessary to meet or improve upon indigent defense standards; and

(b) Demonstrates that the amount of the requested state indigent defense grant is necessary to meet or improve upon indigent defense standards.

(5) The commission shall approve or disapprove the application submitted under subsection (2) of this section within sixty (60) days of the submission of the application. If the commission disapproves the application, the county shall consult with the commission and submit a revised application within thirty (30) days of the mailing date of the official notification of the commission's disapproval. If after two (2) revisions a resolution is not reached, any dispute shall be resolved in accordance with the Idaho administrative procedure act and rules promulgated by the commission pursuant to section 19-850(1)(a)(v), Idaho Code.

(6) On October 1, 2016, or as soon thereafter as is practicable, and on October 1 of each year thereafter, or as soon thereafter as is practicable, the commission shall distribute the approved state indigent defense grant to a county if:

(a) The most recent annual report required by section 19-864, Idaho Code, has been filed, to the satisfaction of the commission;

(b) The county has filed, to the satisfaction of the commission, its most recent application for a state indigent defense grant required by subsection (2) of this section; and

(c) The county has cured, to the satisfaction of the commission, any material breach of the terms of a previously approved state indigent defense grant.

(7) On or before September 1, 2016, and by September 1 of each year thereafter, the commission shall submit a report with its annual budget request to the office of the administrator of the division of financial management and the legislative services office requesting the appropriation of funds necessary to provide state indigent defense grants to counties as approved by the commission. The information used to create this report shall be made available to the administrator of the division of financial management and the legislative services office.

(8) A county may be required to provide indigent defense funds in excess of its local share in the event the cost of successfully executing its plan submitted pursuant to subsection (2) exceeds the sum of its local share and the maximum state indigent defense grant for which it may be eligible in a given county fiscal year.

(9) By March 31 of each year, all counties shall be in compliance with indigent defense standards that were in full force and effect as of May 1 of the prior year.

(10) Each application submitted pursuant to subsection (2) of this section after March 31, 2017, shall contain an attestation stating whether the county has complied with indigent defense standards as required by subsection (9) of this section and, if not, a specific explanation for its failure to do so.

(11) In the event the commission determines that any county has failed to materially comply with indigent defense standards, the commission shall:

(a) Require the county's upcoming state indigent defense grant application to specifically address how the noncompliance will be cured in the upcoming county fiscal year as provided in subsection (2) of this section; or

(b) If any county has willfully and materially failed to comply with indigent defense standards, notify the county in writing of its determination and intent to remedy specific deficiencies at the expense of the county to the extent necessary to comply with indigent defense standards. Within thirty (30) days of the date of said notice, the commission and the county or their designees shall attempt to meet at least once to resolve the issues of the noncompliance. If the commission and the county are unable to resolve the matter through this meeting process, the commission and county shall mutually set a date for mediation within forty-five (45) days, with the cost of mediation to be paid equally by the parties. If after mediation the commission and the county are unable to come to a resolution, the commission shall provide written notice to the county of its decision to remedy specific deficiencies at the expense of the county to the extent necessary to comply with indigent defense standards. This decision is subject to administrative review as provided in subsection (13) of this section. If the county does not timely request administrative review or if the administrative review process affirms the commission's determination, the commission shall remedy specific deficiencies at the expense of the county to the extent necessary to comply with indigent defense standards.

(12) If the commission acts to remedy specific deficiencies as provided in subsection (11) (b) of this section, the county shall pay to the commission, notwithstanding the county's applicable local share, the amount incurred by the commission in remedying specific deficiencies as billed by the commission on a semiannual basis coinciding with the county fiscal year. Such amount shall be paid to the commission within sixty (60) days of the date of the billing. If the county fails to provide the commission with the funds billed pursuant to this subsection within sixty (60) days of the date of the commission's billing, the state treasurer shall immediately intercept any payments from sales tax moneys that would be distributed to the county pursuant to section 63-3638, Idaho Code, and apply the intercepted payments to reimburse the commission for the costs incurred in remedying specific deficiencies as billed pursuant to this subsection. The foregoing intercept and transfer provisions shall operate by force of law and no consent thereto is required of the county in order to be enforceable. The commission and the state have no obligation to the county or to any person or entity to replace any moneys intercepted under the authority of this subsection.

(13) A county aggrieved by a decision made by the commission pursuant to subsection (11) (b) of this section shall be afforded reasonable notice and

opportunity for a fair hearing in accordance with the Idaho administrative procedure act and rules promulgated by the commission pursuant to section 19-850(1) (a) (v) , Idaho Code.

(14) If the commission's actions to remedy specific deficiencies, pursuant to subsection (11) (b) of this section, involve providing indigent defense services on behalf of a county, the county may submit an application for a state indigent defense grant in accordance with subsection (2) of this section and request to resume providing indigent defense services. The commission may approve the application and permit the county to resume providing indigent defense services in the event the county has demonstrated that it has cured or will cure any material noncompliance with indigent defense standards to the satisfaction of the commission.

(15) Failure to comply with the standards promulgated pursuant to section 19-850(1) (a) , Idaho Code, or the terms of a state indigent defense grant does not constitute ineffective assistance of counsel under the constitutions of the United States or the state of Idaho.

SECTION 6. That Section 19-864, Idaho Code, be, and the same is hereby amended to read as follows:

19-864. RECORDS OF DEFENDING ATTORNEYS -- ANNUAL REPORT OF DEFENDING ATTORNEYS. (1) A Indigent defense providers and defending attorneys shall keep appropriate records respecting each person whom he they represents under this act.

(2) On or before November 1 of each year, indigent defense providers and any dDefending attorneys whose information is not otherwise included in a report from an indigent defense provider shall submit an annual report to the board of county commissioners and, the appropriate administrative district judge showing the number of persons represented under this act, the crimes involved and the expenditures, totaled by kind, made in carrying out the responsibilities imposed by this act and the commission in conformance with the rules promulgated pursuant to section 19-850(1) (a) (ii) , Idaho Code.

Approved March 24, 2016

CHAPTER 196
(H.B. No. 495)

AN ACT

RELATING TO ALCOHOL VIOLATIONS; AMENDING SECTION 18-1502, IDAHO CODE, TO PROVIDE THAT CERTAIN VIOLATIONS AND RECORDS OF VIOLATIONS SHALL BE VACATED AND SEALED.

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

SECTION 1. That Section 18-1502, Idaho Code, be, and the same is hereby amended to read as follows:

18-1502. BEER, WINE OR OTHER ALCOHOL AGE VIOLATIONS -- FINES. (a) Whenever a person is in violation, on the basis of his age, of any federal, state, or municipal law or ordinance pertaining to the use, possession, procurement, or attempted procurement, or dispensing of any beer, wine or other alcoholic beverage product, the violation shall constitute a misdemeanor.

(b) Every person convicted of a misdemeanor under this section shall be punished by a fine of not more than one thousand dollars (\$1,000). The second conviction under this section shall be punished by a fine of not more than two thousand dollars (\$2,000) , or up to thirty (30) days in jail or both. The third and subsequent conviction under this section shall be punished by

a fine of not more than three thousand dollars (\$3,000), or up to sixty (60) days in jail or both.

(c) A conviction under this section shall not be used or considered in any manner for purposes of motor vehicle insurance.

(d) Whenever a person pleads guilty or is found guilty of violating any law pertaining to the possession, use, procurement, attempted procurement or dispensing of any beer, wine, or other alcoholic beverage, and such person was under twenty-one (21) years of age at the time of such violation, then in addition to the penalty provided in subsection (b) of this section:

(1) The court shall suspend the person's driving privileges for a period of not more than one (1) year. The person may request restricted driving privileges during the period of suspension, which the court may allow, if the person shows by a preponderance of the evidence that driving privileges are necessary as deemed appropriate by the court.

(2) If the person's driving privileges have been previously suspended under this section, the court shall suspend the person's driving privileges for a period of not more than two (2) years. The person may request restricted driving privileges during the period of suspension, which the court may allow, if the person shows by a preponderance of the evidence that driving privileges are necessary as deemed appropriate by the court.

(3) The person shall surrender his license or permit to the court.

(4) The court shall notify the motor vehicle division of the Idaho transportation department of all orders of suspension it issues pursuant to this section.

(5) The court, in its discretion, may also order the person to undergo and complete an alcohol evaluation and to complete an alcohol treatment or education program in the same manner that persons sentenced pursuant to section 18-8005, Idaho Code, are required to undergo and complete.

(6) A person who has been found guilty of only one (1) violation of this section or section 23-604, Idaho Code, and does not have any alcohol or drug related findings of guilt, in this state or any state, within five (5) years of the commission of a violation of this section or section 23-604, Idaho Code, shall have such finding completely vacated and sealed by the court. The person shall have the responsibility for initiating this process, and the court shall provide a form for the convicted person to use. No fee shall be charged by the court for this process.

Approved March 24, 2016

CHAPTER 197
(H.B. No. 483)

AN ACT

RELATING TO PHARMACY; AMENDING CHAPTER 17, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1769, IDAHO CODE, TO PROVIDE THAT A PHARMACIST WHO DISPENSES A BIOLOGICAL PRODUCT SHALL COMMUNICATE CERTAIN INFORMATION TO THE PRESCRIBER AND TO PROVIDE EXCEPTIONS, TO PROVIDE THAT THE DISPENSING OF A VALID PRESCRIPTION SHALL NOT BE DELAYED AND TO DEFINE TERMS; AND PROVIDING A SUNSET DATE.

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

SECTION 1. 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 54-1769, Idaho Code, and to read as follows:

54-1769. COMMUNICATION REGARDING BIOLOGICAL PRODUCTS. (1) A pharmacist who dispenses a biological product according to board rule shall communicate to the prescriber the name and manufacturer of the drug within five (5) business days following the dispensing of the biological product. Communication shall occur via an entry in an interoperable electronic medical records system, an electronic prescribing technology, a pharmacy benefit management system or a pharmacy record that can be accessed electronically by the prescriber. Entry into an electronic records system as described in this subsection shall be considered notice to the prescriber. Otherwise, the pharmacist shall communicate the biological product dispensed to the prescriber using facsimile, telephone, electronic transmission or other prevailing means, provided that the communication shall not be required when:

(a) There is no interchangeable biological product approved by the federal food and drug administration for the product prescribed;

(b) A refill prescription is not changed from the product dispensed on the prior filling of the prescription; or

(c) The pharmacist or the pharmacist's designee has already communicated to the prescriber the specific product to be provided to the patient, including the name and manufacturer of the product, prior to dispensing; and that product is the product that is actually dispensed.

(2) Nothing in this section shall delay the dispensing of a valid prescription for a biological product.

(3) For purposes of this section:

(a) "Biological product" shall have the same meaning as in 42 U.S.C. 262(i).

(b) "Interchangeable biological product" means a biological product that the federal food and drug administration has licensed and determined meets the standards for interchangeability set forth in 42 U.S.C. 262(k)(4) or has been deemed therapeutically equivalent by the federal food and drug administration in the latest edition of or supplement to the publication "Approved Drug Products with Therapeutic Equivalence Evaluations."

SECTION 2. The provisions of this act shall be null, void and of no force and effect on and after July 1, 2026.

Approved March 24, 2016

CHAPTER 198
(H.B. No. 469)

AN ACT

RELATING TO NOXIOUS WEEDS; AMENDING SECTION 22-2402, IDAHO CODE, TO REVISE A DEFINITION.

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

SECTION 1. That Section 22-2402, Idaho Code, be, and the same is hereby amended to read as follows:

22-2402. DEFINITIONS. As used in this chapter:

(1) "Agency" means:

(a) In the case of the federal government, any authority which exercises administrative control over defined areas of federal lands within the state of Idaho;

(b) In the case of the state of Idaho, any department, board, commission, or institution;

(c) In the case of local government, cities, counties and any legal subdivisions thereof, drainage districts, irrigation districts, canal companies, highway districts, or any special taxing district.

(2) "Applicable fund or account" means:

(a) In the case of the state of Idaho, the noxious weed account, which is hereby created and established in the dedicated fund and which shall be used exclusively for the purposes prescribed by this chapter;

(b) In each county, the noxious weed fund, which is hereby created and established and shall be maintained in each county and which shall be used exclusively for the purposes prescribed by this chapter.

(3) "Aquatic plant" means any plant growing in, or closely associated with, the aquatic environment and includes, but is not limited to, riparian plants.

(4) "Article" means a particular kind of object, and includes any type of conveyance, mode of transport or associated materials such as water.

(5) "Classical biological control" means the introduction of control agents into a region, that is not part of their natural range, to suppress permanently the populations of selected target weeds usually also introduced into that region. "Augmentative biological control" means the supplemental release of control agents into a region, that is part of their natural range, to suppress permanently the populations of selected target weeds.

(6) "Containment" means halting the spread of a weed infestation beyond specified boundaries.

(7) "Control" means any or all of the following: prevention, rehabilitation, eradication or modified treatments.

(8) "Control authority" means:

(a) On the state level, the director of the department of agriculture;

(b) On the county level, the board of county commissioners.

(9) "Cooperative weed management area (CWMA)" means a distinguishable hydrologic, vegetative or geographic zone based upon geography, weed infestations, climate or human-use patterns. Cooperative weed management areas may be composed of a portion of a county, a county, portions of several counties, or portions of one (1) or more states.

(10) "Department" means the Idaho state department of agriculture.

(11) "Director" means the director of the department of agriculture or the director's designated agent.

(12) "Eradication" means the elimination of a noxious weed based on absence as determined by a visual inspection by the control authority during the current growing season.

(13) "Integrated weed management plan (IWMP)" means a plan developed to manage, control or eradicate a noxious weed(s) from a cooperative weed management area or other weed management area. Integrated weed management strategies may include, but are not limited to, prevention, cultural, mechanical, chemical and biological methods.

(14) "Land" means all soil or water or other growing medium.

(15) "Landowner" means:

(a) The person who holds legal title to the land, except that portion for which another person has the right to exclude others from possession of the parcel; or

(b) A person with an interest in a parcel of land such that the person has the right to exclude others from possession of the parcel.

(16) "Modified treatment" means treatment specified in an integrated weed management plan.

(17) "Noxious weed" means any plant having the potential to cause injury to public health, crops, livestock, land or other property; and which is designated as noxious by the director.

(18) "Person" means any individual, partnership, firm, agency, corporation, company, society or association.

(19) "Prevention" means:

(a) Any action that reduces the potential for the introduction or establishment of a plant species in areas not currently infested with that species; or

(b) Any action that deters the spread of noxious weeds.

(20) "Quarantine" means the regulation of the production, movement, or existence of plants, plant products, animals, animal products, or any other article or material, or the normal activity of persons, to prevent or limit introduction or spread of noxious weeds.

(21) "Rehabilitation" means the process of reconditioning formerly weed infested land to a productive or desirable condition.

(22) "Riparian" means the green, vegetated areas along the edge of water bodies like rivers, creeks, canals, lakes, springs, sloughs, potholes and wetlands. They are the transition zone between upland and aquatic ecosystems. Underlying saturated soil is a key feature in riparian areas.

(23) "State noxious weed advisory committee" means an advisory committee appointed by the director to advise and to assist in development, modification and direction of a statewide noxious weed management strategy.

(24) "Viable" means a plant or plant part capable of surviving or living successfully, especially under particular environmental conditions.

(25) "Waters" means all the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through, or which border upon the state.

(26) "Weed control advisory committee" means a committee established by weed control agencies or authorities, at the county level, or a steering committee of a cooperative weed management area, to develop and to recommend implementation of integrated weed management plans and strategies.

(27) "Hybrid" means the offspring of two (2) plants of different breeds, varieties, species or genera.

(28) "Releasing" means releasing, placing, planting, or causing to be released, a species in a water body, facility, water supply system, field, garden, planted area, ecosystem or otherwise into the environment within the state of Idaho.

(29) "Researcher" means someone who has the generally accepted education, experience and position within the biological control research community.

(30) "Research facility" means:

(a) Any laboratory, institution, college or university, at which scientific tests, experiments or peer-reviewed investigations involving the use of any living plants is are carried out, conducted or attempted and that receives funds under a grant, award or contract from a department, agency, or instrumentality of the United States for the purpose of carrying out research, tests or experiments and that uses generally accepted protocols at an equivalent or higher level than a U.S. centers for disease control and prevention biosafety level 1 facility; or

(b) Any privately funded laboratory, institution, college or university at which scientific tests, experiments or peer-reviewed investigations involving the use of any living plants are carried out, conducted or attempted and that uses generally accepted protocols at an equivalent or higher level than a U.S. centers for disease control and prevention biosafety level 1 facility.

CHAPTER 199

(H.B. No. 452, As Amended in the Senate)

AN ACT

RELATING TO THE TRANSFER OF SICK LEAVE AND STATE EDUCATIONAL AGENCIES; AMENDING SECTION 67-5302, IDAHO CODE, TO DEFINE TERMS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-5333A, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE TRANSFER OF ACCRUED SICK LEAVE FOR CERTAIN EMPLOYEES; AND AMENDING SECTION 33-1217, IDAHO CODE, TO REVISE PROVISIONS REGARDING ACCRUED UNUSED SICK LEAVE.

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

SECTION 1. That Section 67-5302, Idaho Code, be, and the same is hereby amended to read as follows:

67-5302. DEFINITIONS. As used in this chapter, and other applicable sections of the Idaho Code, 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. Such terms and their definitions are:

(1) "Administrative employee" means any person, nonclassified or classified appointed to a position which meets the criteria set forth in the federal fair labor standards act, 29 U.S.C. section 201, et seq. Final designation of a classified position as "administrative" within this definition shall be made by the administrator of the division of human resources. Exceptions to this designation which do not violate the federal fair labor standards act, 29 U.S.C. section 201, et seq., may be made by the administrator.

(2) "Administrator" means the administrator of the division of human resources in the governor's office.

(3) "Appointing authority" means the officer, board, commission, person or group of persons authorized by statute or lawfully delegated authority to make appointments to or employ personnel in any department.

(4) "Class" means a group of positions sufficiently similar as to the duties performed, degree of supervision exercised or required, minimum requirements of training, experience or skill, and other characteristics, that the same title, the same tests of fitness and the same schedule of compensation may be applied to each position in the group.

(5) "Classified officer or employee" means any person appointed to or holding a position in any department of the state of Idaho, which position is subject to the provisions of the merit examination, selection, retention, promotion and dismissal requirements of chapter 53, title 67, Idaho Code.

(6) "Commission" means the Idaho personnel commission.

(7) "Compensatory time" means approved time off from duty provided in compensation for overtime hours worked.

(8) "Computer worker" means any person, nonclassified or classified, appointed to a position which meets the criteria set forth in the federal fair labor standards act, 29 U.S.C. section 201, et seq. Final designation of a classified position as "computer worker" within this definition shall be made by the administrator of the division of human resources. Exceptions to this designation which that do not violate the federal fair labor standards act, 29 U.S.C. section 201, et seq., may be made by the administrator.

(9) "Department" means any department, agency, institution or office of the state of Idaho.

(10) "Disabled veteran" is as defined in section 65-502, Idaho Code.

(11) "Eligible" means a person who has been determined to be qualified for a classified position and whose name has been placed on the register of eligibles.

(12) "Executive employee" means any person, nonclassified or classified, appointed to a position equivalent to a bureau chief or above as provided in section 67-2402, Idaho Code, or any employee meeting the following criteria:

- (a) An individual whose primary duty is management of a department, division or bureau; and
- (b) Who customarily and regularly directs the work of at least two (2) or more other employees therein; and
- (c) Who has the authority to hire and fire, or to recommend hiring and firing; or whose recommendation on these and other actions affecting employees is given particular weight; and
- (d) Who customarily and regularly exercises discretionary powers; and
- (e) Who is classified to a position allocated to the pay grade equivalent to two hundred sixty (260) points or higher pursuant to the rating system established by rule.
- (f) Final designation of a classified position as "executive" in this definition shall be made by the administrator. Exceptions to this designation which do not violate the federal fair labor standards act, 29 U.S.C. section 201, et seq., may be made by the administrator.

(13) "Exempt employee" means any employee, classified or nonclassified, who is determined to be an executive, professional or administrative employee as defined herein, or who qualifies for any other exemption from cash compensation for overtime under applicable federal law. Final designation of a classified position as exempt shall be made by the administrator.

(14) "Full-time employee" means any employee working a forty (40) hour work week.

(15) "Holiday" means the following:

- January 1 (New Year's Day);
- Third Monday in January (Martin Luther King, Jr.-Idaho Human Rights Day);
- Third Monday in February (Washington's Birthday);
- Last Monday in May (Memorial Day);
- July 4 (Independence Day);
- First Monday in September (Labor Day);
- Second Monday in October (Columbus Day);
- November 11 (Veterans Day);
- Fourth Thursday in November (Thanksgiving);
- December 25 (Christmas).

In addition, the term "holiday" shall mean any day so designated by the President of the United States or the governor of this state for a public fast, thanksgiving or holiday.

In the event that a holiday occurs on a Saturday, the preceding Friday shall be a holiday, and if the holiday falls on a Sunday, the following Monday shall be a holiday.

A holiday is a day of exemption from work granted to nonexecutive employees during which said employees shall be compensated as if they actually worked. Employees classified as executive exempt are entitled to ten (10) paid holidays per year. If such an employee works on one (1) of the official holidays listed in this subsection, then such employee may take an alternative day off but shall not receive additional compensation.

(16) "Hours worked" means those hours actually spent in the performance of the employee's job on any day including holidays, and shall not include vacation or sick leave or other approved leave of absence.

(17) "Nonclassified employee" means any person appointed to or holding a position in any department of the state of Idaho, which position is exempted from the provisions of chapter 53, title 67, Idaho Code, as provided for in section 67-5303, Idaho Code.

(18) "Normal work week" means any forty (40) hours worked during a particular one hundred sixty-eight (168) hour period as previously established by the employee's appointing authority.

(19) "Open competitive examination" means an examination which may be taken by qualified applicants to compete on an equal basis for listing on the register of eligibles.

(20) "Overtime work" means time worked on holidays and time worked in excess of forty (40) hours in a period of one hundred sixty-eight (168) consecutive hours, except that in the case of those employees engaged in law enforcement, correctional and fire protection activities characterized by irregular shift work schedules, time worked in excess of one hundred sixty (160) hours in a period of twenty-eight (28) consecutive days shall constitute overtime work within the meaning of this chapter. Such employees may also be paid overtime for specific hours worked in addition to their normal schedules upon emergency declaration by the governor or with the approval of the appointing authority and the board of examiners.

(21) "Participating department" means any department of the state of Idaho which employs persons in classified positions subject to the merit examination, selection, retention, promotion and dismissal requirements of this chapter.

(22) "Part-time employee" means any employee whose usually scheduled work is less than forty (40) hours in a period of one hundred sixty-eight (168) consecutive hours, and who shall not be entitled to sick leave accruals provided in section 67-5333, Idaho Code, vacation leave provided in section 67-5334, Idaho Code, nor holiday pay as defined in subsection (15) of this section, unless contributions are being made to the public employee retirement system in accordance with chapter 13, title 59, Idaho Code, and rules promulgated by the public employee retirement system board.

(23) "Personnel system" means the procedure for administering employees in accordance with this chapter.

(24) "Political office" means a public office for which partisan politics is a basis for nomination, election or appointment.

(25) "Political organization" means a party ~~which~~ that sponsors candidates for election to political office.

(26) "Position" means a group of duties and responsibilities legally assigned or delegated by one (1) or more appointing authorities and requiring the employment of one (1) person.

(27) "Professional employee" means any person, nonclassified or classified, appointed to a position ~~which~~ that meets the criteria set forth in the federal fair labor standards act, 29 U.S.C. section 201, et seq. Final designation of a classified position as "professional" within this definition shall be made by the administrator. Exceptions to this designation ~~which~~ that do not violate the federal fair labor standards act, 29 U.S.C. section 201, et seq., may be made by the administrator.

(28) "Provisional appointment" means appointment to a classified position pending the establishment of a register for such position and employment shall not be continued in this status longer than thirty (30) days after establishment of a register.

(29) "Public education entity" means community colleges, public school districts, public charter schools and the Idaho digital learning academy.

(30) "Qualifying examination" means an examination or evaluation given to a selected person to determine eligibility for reclassification or appointment to a position in a classification.

(301) "Register" means a list of names of persons who have been determined to be eligible for employment in a classified position as determined on the basis of examination and merit factors as established by the administrator.

(312) "Seasonal appointment" means an appointment to a position which that is permanent in nature, but which that has intermittent work periods throughout the year.

(323) "Service rating" means a recorded evaluation of work performance and promotional potential of an employee by his supervisor.

(334) "State educational agency" means the following state agencies and educational institutions supervised by the Idaho state board of education:

- (a) Boise state university;
- (b) Idaho state university;
- (c) University of Idaho;
- (d) Lewis-Clark state college;
- (e) Eastern Idaho technical college;
- (f) Idaho public television;
- (g) The division of vocational rehabilitation;
- (h) The division of career technical education;
- (i) The office of the state board of education; and
- (j) The department of education.

(35) "Temporary appointment" means appointment to a position which that is not permanent in nature, and in which employment will not exceed one thousand three hundred eighty-five (1,385) hours during any twelve (12) month period. No person holding a temporary appointment may work in excess of one thousand three hundred eighty-five (1,385) hours during a twelve (12) month period of time for any one (1) department, except upon petition by the appointing authority of the department of lands that demonstrates good cause, the administrator of the division of human resources may extend the one thousand three hundred eighty-five (1,385) hour limit for employees of the department who are required to perform fire suppression activities.

(346) "Vacation leave" means a period of exemption from work granted to employees during which time said employees shall be compensated. The term shall not include compensatory time for overtime work.

(357) "Veteran" is as defined in section 65-502, Idaho Code.

SECTION 2. That Section 67-5333A, Idaho Code, be, and the same is hereby amended to read as follows:

~~67-5333A. SICK LEAVE TRANSFERRED -- COMMUNITY COLLEGES -- STATE EMPLOYMENT PUBLIC EDUCATION ENTITY AND STATE EDUCATIONAL AGENCY. Notwithstanding any other provision of law to the contrary, any Any employee who has accrued sick leave while in the employment of one (1) of Idaho's community colleges and who, on or after January 1, 2012, is transferred to or otherwise becomes an eligible employee of a state of Idaho educational agency immediately following termination of employment with a community college public education entity shall be credited by the state of Idaho with the amount of any unused sick leave previously accrued and unused, up to a maximum of ninety (90) days, upon commencement of state educational agency employment. Any employee who becomes an eligible employee of a public education entity immediately following termination of state educational agency employment shall be credited by the public education entity with the amount of sick leave accrued upon commencement of public education entity employment. After such transfer, the use of sick leave shall be governed by the laws and, rules and policies applicable to state employees and any applicable policies of the state educational agency or public education entity thereafter employing such employee.~~

SECTION 3. That Section 33-1217, Idaho Code, be, and the same is hereby amended to read as follows:

~~33-1217. ACCUMULATION OF ACCRUED UNUSED SICK LEAVE -- TRANSFER -- SICK LEAVE WHEN DISTRICTS DIVIDE OR CONSOLIDATE.~~ Unused sick leave shall be ~~accumulated~~ accrue from year to year as long as an employee remains continuously in the service of the same school district, including charter districts, ~~to ninety (90) days accumulation of leave.~~ Termination of employment in any district shall terminate sick leave rights, both current and ~~accumulated~~ accrued, except when such employee is employed by ~~another district or another~~ a public education entity or by a state educational agency, as such terms are defined in section 67-5302, Idaho Code, during the school year immediately following the year of termination or within three (3) school years immediately following the year of termination if termination of employment is due to a reduction in force; and the ~~accumulated accrued sick leave up to a maximum of ninety (90) days~~ shall be secured for, and credited to, the employee by the ~~district~~ public education entity or state educational agency thereafter employing such employee. ~~Any employee employed by a school district who was employed by a state educational agency employee or public education entity employee who obtains employment with a school district during the current or prior subsequent school year following termination shall be credited any unused sick leave accumulated accrued during state employment up to a maximum of ninety (90) days.~~ Whenever new school districts are formed by the consolidation or by the division of existing districts, the ~~accumulated~~ accrued sick leave of school district employees who continue in service in the new district or districts created by such consolidation or division shall have such ~~accumulated~~ accrued sick leave secured for and credited to them in such newly created district or districts.

Approved March 24, 2016

CHAPTER 200
(H.B. No. 439)

AN ACT

RELATING TO THE STATE APPELLATE PUBLIC DEFENDER; AMENDING SECTION 19-870, IDAHO CODE, TO PROVIDE THAT THE STATE APPELLATE PUBLIC DEFENDER SHALL PROVIDE REPRESENTATION FOR CERTAIN INTERLOCUTORY APPEALS AND TO REVISE PROVISIONS RELATING TO POST-CONVICTION RELIEF AND HABEAS CORPUS PROCEEDINGS.

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

SECTION 1. That Section 19-870, Idaho Code, be, and the same is hereby amended to read as follows:

19-870. POWERS AND DUTIES. (1) Subject to the provisions of subsection (2) of this section, the state appellate public defender, upon appointment by the court, shall provide representation for indigent defendants in felony criminal actions in the following cases:

- (a) Appeals from convictions in district court, where the appellant was convicted on or after September 1, 1998;
- (b) Interlocutory appeals from district court, where the interlocutory appeal was filed on or after September 1, 1998;
- (c) Appeals from the district court in post-conviction relief proceedings brought pursuant to the uniform post-conviction procedure

act, chapter 49, title 19, Idaho Code, where the grant or denial of the post-conviction relief occurred on or after September 1, 1998;

(ed) Appeals from the district court in habeas corpus proceedings brought pursuant to chapter 42, title 19, Idaho Code, where the petition was granted or denied on or after September 1, 1998;

(de) Post-conviction relief proceedings in district court in capital cases where the appellant was sentenced on or after September 1, 1998, or where the court has appointed the state appellate public defender or the state appellate public defender has accepted the request by the court for representation in the case and such event occurred on or after July 1, 1998, but before March 1, 1999.

(2) The services of the state appellate public defender shall be available only to those counties participating in the capital crimes defense fund established pursuant to section 19-863A, Idaho Code.

(3) The state appellate public defender may employ deputy state appellate public defenders and other employees necessary to carry out the responsibilities of the office. The state appellate public defender, in his discretion, may contract with private attorneys to provide representation on a case-by-case basis when such contracts would conserve budgetary resources.

(a) A deputy state appellate public defender must be licensed to practice law in the state of Idaho and possess any other qualifications required by the state appellate public defender.

(b) The state appellate public defender shall fix the compensation of all employees of the office and they shall serve at his pleasure.

(c) The state appellate public defender, deputy state appellate public defenders and all employees of the office of the state appellate public defender shall be nonclassified employees, pursuant to section 67-5303, Idaho Code.

(4) The state appellate public defender shall have any and all other powers and duties necessary to carry out the purposes of this act, including the authority to promulgate rules in accordance with the provisions of chapter 52, title 67, Idaho Code.

Approved March 24, 2016

CHAPTER 201
(H.B. No. 398)

AN ACT

RELATING TO THE REVISED UNIFORM ATHLETE AGENTS ACT; REPEALING CHAPTER 48, TITLE 54, IDAHO CODE, RELATING TO THE UNIFORM ATHLETE AGENTS ACT; AND AMENDING TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 48, TITLE 54, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE RULEMAKING AUTHORITY, TO PROVIDE CERTAIN AUTHORITY TO THE BUREAU OF OCCUPATIONAL LICENSES, TO REQUIRE REGISTRATION FOR ATHLETE AGENTS, TO PROVIDE CERTAIN EXCEPTIONS TO REGISTRATION, TO PROVIDE THAT A CONTRACT ENTERED INTO WITH AN UNREGISTERED INDIVIDUAL IS VOID, TO PROVIDE PROCEDURES AND REQUIREMENTS FOR APPLICATION AS AN ATHLETE AGENT, TO PROVIDE FOR THE ISSUANCE, DENIAL AND RENEWAL OF A CERTIFICATE OF REGISTRATION, TO PROVIDE FOR THE SUSPENSION, REVOCATION OR REFUSAL TO RENEW REGISTRATION, TO PROVIDE FOR TEMPORARY REGISTRATION, TO PROVIDE FOR REGISTRATION AND RENEWAL FEES, TO PROVIDE FOR REQUIREMENTS OF AN AGENCY CONTRACT, TO PROVIDE FOR NOTICE TO AN EDUCATIONAL INSTITUTION IN CERTAIN INSTANCES, TO PROVIDE FOR A STUDENT ATHLETE'S RIGHT TO CANCEL AN AGENCY CONTRACT IN CERTAIN INSTANCES, TO REQUIRE AN ATHLETE AGENT TO CREATE AND RETAIN CERTAIN RECORDS, TO PROHIBIT CERTAIN CONDUCT FOR AN ATHLETE AGENT, TO PROVIDE A CRIMINAL PENALTY, TO PROVIDE A CIVIL REMEDY

FOR AN EDUCATIONAL INSTITUTION OR STUDENT ATHLETE IN CERTAIN INSTANCES, TO PROVIDE A CIVIL PENALTY, TO PROVIDE FOR UNIFORMITY OF CONSTRUCTION, TO PROVIDE FOR RELATION TO THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT AND TO PROVIDE SEVERABILITY.

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

SECTION 1. That Chapter 48, Title 54, Idaho Code, be, and the same is hereby repealed.

SECTION 2. 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 48, Title 54, Idaho Code, and to read as follows:

CHAPTER 48
REVISED UNIFORM ATHLETE AGENTS ACT

54-4801. SHORT TITLE. This chapter may be cited as the "Revised Uniform Athlete Agents Act."

54-4802. DEFINITIONS. As used in this chapter:

(1) "Agency contract" means an agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the athlete a professional-sports-services contract or endorsement contract.

(2) "Athlete agent":

(a) Means an individual, whether or not registered under this chapter, who:

(i) Directly or indirectly recruits or solicits a student athlete to enter into an agency contract or, for compensation, procures employment or offers, promises, attempts or negotiates to obtain employment for a student athlete as a professional athlete or member of a professional sports team or organization;

(ii) For compensation or in anticipation of compensation related to a student athlete's participation in athletics:

1. Serves the athlete in an advisory capacity on a matter related to finances, business pursuits or career management decisions, unless the individual is an employee of an educational institution acting exclusively as an employee of the institution for the benefit of the institution; or

2. Manages the business affairs of the athlete by providing assistance with bills, payments, contracts or taxes; or

(iii) In anticipation of representing a student athlete for a purpose related to the athlete's participation in athletics:

1. Gives consideration to the student athlete or another person;

2. Serves the athlete in an advisory capacity on a matter related to finances, business pursuits or career management decisions; or

3. Manages the business affairs of the athlete by providing assistance with bills, payments, contracts or taxes; but

(b) Does not include an individual who:

(i) Acts solely on behalf of a professional sports team or organization; or

(ii) Is a licensed, registered or certified professional and offers or provides services to a student athlete customarily provided by members of the profession, unless the individual:

1. Also recruits or solicits the athlete to enter into an agency contract;

2. Also, for compensation, procures employment or offers, promises, attempts or negotiates to obtain employment for

the athlete as a professional athlete or member of a professional sports team or organization; or

3. Receives consideration for providing the services calculated using a different method than for an individual who is not a student athlete.

(3) "Athletic director" means the individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male students and female students, the athletic program for males or the athletic program for females, as appropriate.

(4) "Bureau" means the bureau of occupational licenses.

(5) "Educational institution" includes a public or private elementary school, secondary school, technical or vocational school, community college, college and university.

(6) "Endorsement contract" means an agreement under which a student athlete is employed or receives consideration to use on behalf of the other party any value that the athlete may have because of publicity, reputation, following or fame obtained because of athletic ability or performance.

(7) "Enrolled" means registered for courses and attending athletic practice or class. "Enrolls" has a corresponding meaning.

(8) "Intercollegiate sport" means a sport played at the collegiate level for which eligibility requirements for participation by a student athlete are established by a national association that promotes or regulates collegiate athletics.

(9) "Interscholastic sport" means a sport played between educational institutions that are not community colleges, colleges or universities.

(10) "Licensed, registered or certified professional" means an individual licensed, registered or certified as an attorney, dealer in securities, financial planner, insurance agent, real estate broker or sales agent, tax consultant, accountant or member of a profession, other than that of athlete agent, who is licensed, registered or certified by the state or a nationally recognized organization that licenses, registers or certifies members of the profession on the basis of experience, education or testing.

(11) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency or instrumentality, or other legal entity.

(12) "Professional-sports-services contract" means an agreement under which an individual is employed as a professional athlete or agrees to render services as a player on a professional sports team or with a professional sports organization.

(13) "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.

(14) "Recruit or solicit" means attempt to influence the choice of an athlete agent by a student athlete or, if the athlete is a minor, a parent or guardian of the athlete. The term does not include giving advice on the selection of a particular agent in a family, coaching or social situation unless the individual giving the advice does so because of the receipt or anticipated receipt of an economic benefit, directly or indirectly, from the agent.

(15) "Registration" means registration as an athlete agent under this chapter.

(16) "Sign" means, with present intent to authenticate or adopt a record:

(a) To execute or adopt a tangible symbol; or

(b) To attach to or logically associate with the record an electronic symbol, sound or process.

(17) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

(18) "Student athlete" means an individual who is eligible to attend an educational institution and engages in, is eligible to engage in, or may be eligible in the future to engage in, any interscholastic or intercollegiate sport. The term does not include an individual permanently ineligible to participate in a particular interscholastic or intercollegiate sport for that sport.

54-4803. BUREAU OF OCCUPATIONAL LICENSES -- AUTHORITY -- PROCEDURE. (1) Chapter 52, title 67, Idaho Code, shall apply to this chapter. The bureau may adopt rules pursuant to chapter 52, title 67, Idaho Code, to implement the provisions of this chapter.

(2) By acting as an athlete agent in this state, a nonresident individual appoints the bureau as the individual's agent for service of process in any civil action in this state related to the individual acting as an athlete agent in this state.

(3) The bureau may issue subpoenas for any material that is relevant to the administration of this chapter.

54-4804. ATHLETE AGENT REGISTRATION REQUIRED -- VOID CONTRACT. (1) Except as otherwise provided in subsection (2) of this section, an individual may not act as an athlete agent in this state without holding a certificate of registration under this chapter.

(2) Before being issued a certificate of registration under this chapter, an individual may act as an athlete agent in this state for all purposes except signing an agency contract, if:

(a) A student athlete or another person acting on behalf of the athlete initiates communication with the individual; and

(b) Not later than seven (7) days after an initial act that requires the individual to register as an athlete agent, the individual submits an application for registration as an athlete agent in this state.

(3) An agency contract resulting from conduct in violation of this section is void, and the athlete agent shall return any consideration received under the contract.

54-4805. REGISTRATION AS ATHLETE AGENT -- APPLICATION -- REQUIREMENTS -- RECIPROCAL REGISTRATION. (1) An applicant for registration as an athlete agent shall submit an application for registration to the bureau in a form prescribed by the bureau. The applicant must be an individual, and the application must be signed by the applicant under penalty of perjury. An application filed under this section is a public record. The application must contain at least the following:

(a) The name and date and place of birth of the applicant and the following contact information for the applicant:

(i) The address of the applicant's principal place of business;

(ii) Work and mobile telephone numbers; and

(iii) Any means of communicating electronically, including a facsimile number, electronic-mail address and personal and business or employer websites;

(b) The name of the applicant's business or employer, if applicable, including for each business or employer, its mailing address, telephone number, type of business organization and the nature of the business;

(c) Each social media account with which the applicant or the applicant's business or employer is affiliated;

(d) Each business or occupation in which the applicant engaged within five (5) years before the date of the application, including self-employment and employment by others, and any professional or occupational

license, registration or certification held by the applicant during that time;

(e) A description of the applicant's:

- (i) Formal training as an athlete agent;
- (ii) Practical experience as an athlete agent; and
- (iii) Educational background relating to the applicant's activities as an athlete agent;

(f) The name of each student athlete for whom the applicant acted as an athlete agent within five (5) years before the date of the application or, if the individual is a minor, the name of the parent or guardian of the minor, together with the athlete's sport and last known team;

(g) The name and address of each person that:

- (i) Is a partner, member, officer, manager, associate or profit sharer or directly or indirectly holds an equity interest of five percent (5%) or greater of the athlete agent's business if it is not a corporation; and
- (ii) Is an officer or director of a corporation employing the athlete agent or a shareholder having an interest of five percent (5%) or greater in the corporation;

(h) A description of the status of any application by the applicant, or any person named under paragraph (g) of this subsection, for a state or federal business, professional or occupational license, other than as an athlete agent, from a state or federal agency, including any denial, refusal to renew, suspension, withdrawal or termination of the license and any reprimand or censure related to the license;

(i) Whether the applicant, or any person named under paragraph (g) of this subsection, has pleaded guilty or no contest to; has been convicted of; entered an Alford plea for; received a withheld judgment, suspended sentence or deferred prosecution for; or has charges pending for, a crime that would involve moral turpitude or be a felony if committed in this state and, if so, identification of:

- (i) The crime;
- (ii) The law enforcement agency involved; and
- (iii) If applicable, the date of the conviction and the fine or penalty imposed;

(j) Whether, within fifteen (15) years before the date of application, the applicant, or any person named under paragraph (g) of this subsection, has been a defendant or respondent in a civil proceeding, including a proceeding seeking an adjudication of legal incompetence and, if so, the date and a full explanation of each proceeding;

(k) Whether the applicant, or any person named under paragraph (g) of this subsection, has an unsatisfied judgment or a judgment of continuing effect, including spousal support or a domestic order in the nature of child support, that is not current at the date of the application;

(l) Whether, within ten (10) years before the date of application, the applicant, or any person named under paragraph (g) of this subsection, was adjudicated bankrupt or was an owner of a business that was adjudicated bankrupt;

(m) Whether there has been any administrative or judicial determination that the applicant, or any person named under paragraph (g) of this subsection, made a false, misleading, deceptive or fraudulent representation;

(n) Each instance in which conduct of the applicant, or any person named under paragraph (g) of this subsection, resulted in the imposition of a sanction, suspension or declaration of ineligibility to participate in an interscholastic, intercollegiate or professional athletic event on a student athlete or a sanction on an educational institution;

- (o) Each sanction, suspension or disciplinary action taken against the applicant, or any person named under paragraph (g) of this subsection, arising out of occupational or professional conduct;
 - (p) Whether there has been a denial of an application for, suspension or revocation of, refusal to renew or abandonment of the registration of the applicant, or any person named under paragraph (g) of this subsection, as an athlete agent in any state;
 - (q) Each state in which the applicant currently is registered as an athlete agent or has applied to be registered as an athlete agent;
 - (r) If the applicant is certified or registered by a professional league or players association:
 - (i) The name of the league or association;
 - (ii) The date of certification or registration and the date of expiration of the certification or registration, if any; and
 - (iii) If applicable, the date of any denial of an application for, suspension or revocation of, refusal to renew, withdrawal of, or termination of the certification or registration, or any reprimand or censure related to the certification or registration; and
 - (s) Any additional information requested by the bureau.
- (2) Instead of proceeding under subsection (1) of this section, an individual registered as an athlete agent in another state may apply for registration as an athlete agent in this state by submitting to the bureau:
- (a) A copy of the application for registration in the other state;
 - (b) A statement that identifies any material change in the information on the application or verifies there is no material change in the information, signed under penalty of perjury; and
 - (c) A copy of the certificate of registration from the other state.
- (3) The bureau shall issue a certificate of registration to an individual who applies for registration under subsection (2) of this section, if the bureau determines:
- (a) The application and registration requirements of the other state are substantially similar to or more restrictive than this chapter; and
 - (b) The registration has not been revoked or suspended and no action involving the individual's conduct as an athlete agent is pending against the individual or the individual's registration in any state.
- (4) For purposes of implementing subsection (3) of this section, the bureau shall:
- (a) Cooperate with national organizations concerned with athlete agent issues, and agencies in other states that register athlete agents, to develop a common registration form and determine which states have laws that are substantially similar to or more restrictive than this chapter; and
 - (b) Exchange information, including information related to actions taken against registered athlete agents or their registrations, with those organizations and agencies.

54-4806. CERTIFICATE OF REGISTRATION -- ISSUANCE OR DENIAL -- RENEWAL. (1) Except as otherwise provided in subsection (2) of this section, the bureau shall issue a certificate of registration to an applicant for registration who complies with section 54-4805(1), Idaho Code.

(2) The bureau may refuse to issue a certificate of registration to an applicant for registration under section 54-4805(1), Idaho Code, if the bureau determines that the applicant has engaged in conduct that significantly adversely reflects on the applicant's fitness to act as an athlete agent. In making the determination, the bureau may consider whether the applicant has:

- (a) Pled guilty or no contest to; has been convicted of; entered an Alford plea for; received a withheld judgment, suspended sentence or deferred prosecution for; or has charges pending for, a crime that would involve moral turpitude or be a felony if committed in this state;

- (b) Made a materially false, misleading, deceptive or fraudulent representation in the application or as an athlete agent;
- (c) Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;
- (d) Engaged in conduct prohibited by section 54-4814, Idaho Code;
- (e) Had a registration as an athlete agent suspended, revoked or denied in any state;
- (f) Been refused renewal of registration as an athlete agent in any state;
- (g) Engaged in conduct resulting in imposition of a sanction, suspension or declaration of ineligibility to participate in an interscholastic, intercollegiate or professional athletic event on a student athlete or a sanction on an educational institution; or
- (h) Engaged in conduct that adversely reflects on the applicant's credibility, honesty or integrity.

(3) In making a determination under subsection (2) of this section, the bureau shall consider:

- (a) How recently the conduct occurred;
- (b) The nature of the conduct and the context in which it occurred; and
- (c) Other relevant conduct of the applicant.

(4) An athlete agent registered under subsection (1) of this section may apply to renew the registration by submitting an application for renewal in a form prescribed by the bureau. The applicant shall sign the application for renewal under penalty of perjury and include current information on all matters required in an original application for registration.

(5) An athlete agent registered under section 54-4805(3), Idaho Code, may renew the registration by proceeding under subsection (4) of this section or, if the registration in the other state has been renewed, by submitting to the bureau copies of the application for renewal in the other state and the renewed registration from the other state. The bureau shall renew the registration if the bureau determines:

- (a) The registration requirements of the other state are substantially similar to or more restrictive than this chapter; and
- (b) The renewed registration has not been suspended or revoked and no action involving the individual's conduct as an athlete agent is pending against the individual or the individual's registration in any state.

(6) A certificate of registration or renewal of registration under this chapter is valid for two (2) years.

54-4807. SUSPENSION, REVOCATION OR REFUSAL TO RENEW REGISTRATION. (1) The bureau may limit, suspend, revoke or refuse to renew a registration of an individual registered under section 54-4806(1), Idaho Code, for conduct that would have justified refusal to issue a certificate of registration under section 54-4806(2), Idaho Code.

(2) The bureau may suspend or revoke the registration of an individual registered under section 54-4805(3), Idaho Code, or renewed under section 54-4806(5), Idaho Code, for any reason that the bureau could have refused to grant or renew registration or for conduct that would justify refusal to issue a certificate of registration under section 54-4806(2), Idaho Code.

(3) The bureau may deny, suspend, revoke or refuse to renew a certificate of registration or licensure only after proper notice and an opportunity for a hearing in accordance with the provisions of chapter 52, title 67, Idaho Code.

54-4808. TEMPORARY REGISTRATION. The bureau may issue a temporary certificate of registration as an athlete agent while an application for registration or renewal of registration is pending.

54-4809. REGISTRATION AND RENEWAL FEES. (1) An application for registration or renewal of registration as an athlete agent must be accompanied by a fee in an amount prescribed by the bureau, but not to exceed two hundred fifty dollars (\$250), for any registration period for the following:

- (a) An initial application for registration;
- (b) Registration based on a certificate of registration issued by another state;
- (c) An application for renewal of registration; or
- (d) Renewal of registration based on a renewal of registration in another state.

(2) All fees received under the provisions of this chapter shall be deposited in the state treasury to the credit of the occupational licenses fund and all costs and expenses incurred by the bureau under the provisions of this chapter shall be a charge against and paid from said fund for such purposes. Notwithstanding the provisions of any other law, the funds collected hereunder shall be immediately available for the administration of this chapter. In no event will the occupational licenses fund be obligated to pay any claims which, in aggregate with claims already paid, exceed the income to the occupational licenses fund that has been derived by the application of this chapter.

(3) The money paid into the occupational licenses fund is continuously appropriated to the bureau for expenditure in the manner prescribed herein to defray the expenses of the bureau in carrying out and enforcing the provisions of this chapter.

54-4810. REQUIRED FORM OF AGENCY CONTRACT. (1) An agency contract must be in a record signed by the parties.

(2) An agency contract must contain:

- (a) A statement that the athlete agent is registered as an athlete agent in this state and a list of any other states in which the agent is registered as an athlete agent;
- (b) The amount and method of calculating the consideration to be paid by the student athlete for services to be provided by the agent under the contract and any other consideration the agent has received or will receive from any other source for entering into the contract or providing the services;
- (c) The name of any person not listed in the agent's application for registration or renewal of registration that will be compensated because the athlete signed the contract;
- (d) A description of any expenses the athlete agrees to reimburse;
- (e) A description of the services to be provided to the athlete;
- (f) The duration of the contract; and
- (g) The date of execution.

(3) Subject to subsection (7) of this section, an agency contract must contain a conspicuous notice in boldface type and in substantially the following form:

WARNING TO STUDENT ATHLETE

IF YOU SIGN THIS CONTRACT:

- (1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT ATHLETE IN YOUR SPORT;
- (2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER SIGNING THIS CONTRACT OR BEFORE THE NEXT SCHEDULED ATHLETIC EVENT IN WHICH YOU PARTICIPATE, WHICHEVER OCCURS FIRST, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR THAT YOU HAVE ENTERED INTO THIS CONTRACT AND PROVIDE THE NAME AND CONTACT INFORMATION OF THE ATHLETE AGENT; AND

(3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY AS A STUDENT ATHLETE IN YOUR SPORT.

(4) An agency contract must be accompanied by a separate record signed by the student athlete or, if the athlete is a minor, the parent or guardian of the athlete acknowledging that signing the contract may result in the loss of the athlete's eligibility to participate in the athlete's sport.

(5) A student athlete or, if the athlete is a minor, the parent or guardian of the athlete may void an agency contract that does not conform to this section. If the contract is voided, any consideration received from the athlete agent under the contract to induce entering into the contract is not required to be returned.

(6) At the time an agency contract is executed, the athlete agent shall give the student athlete or, if the athlete is a minor, the parent or guardian of the athlete a copy in a record of the contract and the separate acknowledgment required by subsection (4) of this section.

(7) If a student athlete is a minor, an agency contract must be signed by the parent or guardian of the minor and the notice required by subsection (3) of this section must be revised accordingly.

54-4811. NOTICE TO EDUCATIONAL INSTITUTION. (1) As used in this section, "communicating or attempting to communicate" means contacting or attempting to contact by an in-person meeting, a record or any other method that conveys or attempts to convey a message.

(2) Not later than seventy-two (72) hours after entering into an agency contract or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the contract to the athletic director of the educational institution at which the athlete is enrolled or at which the agent has reasonable grounds to believe the athlete intends to enroll.

(3) Not later than seventy-two (72) hours after entering into an agency contract or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first, the athlete shall inform the athletic director of the educational institution at which the athlete is enrolled that the athlete has entered into an agency contract and the name and contact information of the athlete agent.

(4) If an athlete agent enters into an agency contract with a student athlete and the athlete subsequently enrolls at an educational institution, the agent shall notify the athletic director of the institution of the existence of the contract not later than seventy-two (72) hours after the agent knew or should have known that the athlete enrolled.

(5) If an athlete agent has a relationship with a student athlete before the athlete enrolls in an educational institution and receives an athletic scholarship from the institution, the agent shall notify the institution of the relationship not later than ten (10) days after the enrollment if the agent knows or should have known of the enrollment and:

(a) The relationship was motivated in whole or in part by the intention of the agent to recruit or solicit the athlete to enter an agency contract in the future; or

(b) The agent directly or indirectly recruited or solicited the athlete to enter an agency contract before the enrollment.

(6) An athlete agent shall give notice in a record to the athletic director of any educational institution at which a student athlete is enrolled before the agent communicates or attempts to communicate with:

(a) The athlete or, if the athlete is a minor, a parent or guardian of the athlete, to influence the athlete or parent or guardian to enter into an agency contract; or

(b) Another individual to have that individual influence the athlete or, if the athlete is a minor, the parent or guardian of the athlete to enter into an agency contract.

(7) If a communication or attempt to communicate with an athlete agent is initiated by a student athlete or another individual on behalf of the athlete, the agent shall notify in a record the athletic director of any educational institution at which the athlete is enrolled. The notification must be made not later than ten (10) days after the communication or attempt.

(8) An educational institution that becomes aware of a violation of this chapter by an athlete agent shall notify the bureau and any professional league or players association with which the institution is aware the agent is licensed or registered of the violation.

54-4812. STUDENT ATHLETE'S RIGHT TO CANCEL. (1) A student athlete or, if the athlete is a minor, the parent or guardian of the athlete may cancel an agency contract by giving notice in a record of cancellation to the athlete agent not later than fourteen (14) days after the contract is signed.

(2) A student athlete or, if the athlete is a minor, the parent or guardian of the athlete may not waive the right to cancel an agency contract.

(3) If a student athlete, parent or guardian cancels an agency contract, the athlete, parent or guardian is not required to pay any consideration under the contract or return any consideration received from the athlete agent to influence the athlete to enter into the contract.

54-4813. REQUIRED RECORDS. (1) An athlete agent shall create and retain for five (5) years records of the following:

- (a) The name and address of each individual represented by the agent;
- (b) Each agency contract entered into by the agent; and
- (c) The direct costs incurred by the agent in the recruitment or solicitation of each student athlete to enter into an agency contract.

(2) Records described in subsection (1) of this section are open to inspection by the bureau during normal business hours.

54-4814. PROHIBITED CONDUCT. (1) An athlete agent, with the intent to influence a student athlete or, if the athlete is a minor, a parent or guardian of the athlete to enter into an agency contract, may not take any of the following actions or encourage any other individual to take or assist any other individual in taking any of the following actions on behalf of the agent:

- (a) Give materially false or misleading information or make a materially false promise or representation;
- (b) Furnish anything of value to the athlete before the athlete enters into the contract; or
- (c) Furnish anything of value to an individual other than the athlete or another registered athlete agent.

(2) An athlete agent may not intentionally do any of the following or encourage any other individual to do any of the following on behalf of the agent:

- (a) Initiate contact, directly or indirectly, with a student athlete or, if the athlete is a minor, a parent or guardian of the athlete, to recruit or solicit the athlete, parent or guardian to enter an agency contract unless registered under this chapter;
- (b) Fail to create or retain or to permit inspection of the records required by section 54-4813, Idaho Code;
- (c) Fail to register when required by section 54-4804, Idaho Code;
- (d) Provide materially false or misleading information in an application for registration or renewal of registration;
- (e) Predate or postdate an agency contract; or

(f) Fail to notify a student athlete or, if the athlete is a minor, a parent or guardian of the athlete, before the athlete, parent or guardian signs an agency contract for a particular sport that the signing may make the athlete ineligible to participate as a student athlete in that sport.

54-4815. CRIMINAL PENALTY. An athlete agent who violates section 54-4814, Idaho Code, shall be guilty of a misdemeanor.

54-4816. CIVIL REMEDY. (1) An educational institution or student athlete may bring an action for damages against an athlete agent if the institution or athlete is adversely affected by an act or omission of the agent in violation of this chapter. An educational institution or student athlete is adversely affected by an act or omission of the agent only if, because of the act or omission, the institution or an individual who was a student athlete at the time of the act or omission and enrolled in the institution:

(a) Is suspended or disqualified from participation in an interscholastic or intercollegiate sports event by or under the rules of a state or national federation or association that promotes or regulates interscholastic or intercollegiate sports; or

(b) Suffers financial damage.

(2) A plaintiff that prevails in an action under this section may recover costs and reasonable attorney's fees. An athlete agent found liable under this section forfeits any right of payment for anything of benefit or value provided to the student athlete and shall refund any consideration paid to the agent by or on behalf of the athlete.

54-4817. CIVIL PENALTY. The bureau may assess a civil penalty against an athlete agent not to exceed twenty-five thousand dollars (\$25,000) for a violation of this chapter.

54-4818. 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 states that enact it.

54-4819. 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).

54-4820. SEVERABILITY. If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Approved March 24, 2016

CHAPTER 202
(H.B. No. 389)

AN ACT

RELATING TO LIENS IN CROPS; AMENDING SECTION 45-308, IDAHO CODE, TO PROVIDE WHAT THE NOTICE OF CLAIM OF LIEN MUST INCLUDE; AMENDING SECTION 45-318, IDAHO CODE, TO PROVIDE THAT A NOTICE OF CLAIM OF LIEN WILL BE DEEMED BY THE SECRETARY OF STATE TO MEET THE REQUIREMENTS OF A FARM PRODUCTS FINANCING STATEMENT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 45-308, Idaho Code, be, and the same is hereby amended to read as follows:

45-308. NOTICE OF CLAIM OF LIEN. (1) A claimant must file with the secretary of state a notice of claim of lien between thirty (30) days before and one hundred twenty (120) days after completion of his labor for or providing seed to the producer. If a notice of claim of lien is filed before completion of the labor or delivery of the seed, there must exist a written or verbal contract for such labor or seed.

(2) The notice of claim of lien must include:

(a) The nature of the lien (farm laborer's or seed);

(b) The name and address of the producer;

(c) The name and address of the claimant;

(d) The county or counties where the crop or crops covered by the lien are grown;

(e) The type(s) of crop (name of commodity) to which the lien applies;

(f) The crop year of the crop(s) to which the lien applies;

(g) Such other information as the secretary of state shall by administrative rule require; and

(h) The amount of claim exclusive of interest.

(3) The notice of claim of lien shall be signed by the claimant, his agent, or his attorney-in-fact, and the signer shall certify to the truth of the claim. Notarization is not required.

(4) The notice of claim of lien shall be filed on a standard form prescribed by the secretary of state. The form must satisfy the requirements of a farm products financing statement under section 28-9-502(e), Idaho Code, except that:

(a) The debtor may be identified as the producer;

(b) The secured party may be identified as the claimant;

(c) The debtor's social security number, taxpayer identification number or other number unique to the debtor need not be included; and

(d) The debtor's signature need not be included.

(5) A claimant shall give written notice of the claim to the producer.

SECTION 2. That Section 45-318, Idaho Code, be, and the same is hereby amended to read as follows:

45-318. APPLICABILITY OF UNIFORM COMMERCIAL CODE. The liens provided for by this chapter are "agricultural liens" as defined in section 28-9-102, Idaho Code. The perfection and effect of perfection or nonperfection of the liens provided by this chapter are governed by uniform commercial code article 9, secured transactions (chapter 9, title 28, Idaho Code). In the event of any conflict between the provisions of this chapter relating to perfection and the effect of perfection or nonperfection of any lien provided by this chapter and the provisions of chapter 9, title 28, Idaho Code, relating to those same issues, the provisions of chapter 9, title 28, Idaho Code,

shall prevail, except that a claim of lien under this chapter will be deemed by the secretary of state to meet the requirements of a farm products financing statement under chapter 9, title 28, Idaho Code.

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

Approved March 24, 2016

CHAPTER 203
(H.B. No. 378)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-412, IDAHO CODE, TO CLARIFY THAT THE FISH AND GAME COMMISSION SHALL PRESCRIBE AND ADMINISTER EDUCATION PROGRAMS IN TRAPPING AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 36-412, Idaho Code, be, and the same is hereby amended to read as follows:

36-412. EDUCATION PROGRAMS -- INSTRUCTOR QUALIFICATIONS -- FEE. (a) The fish and game commission shall prescribe and administer education programs in hunting, trapping and archery. Such programs shall provide instruction in the safe handling of lawful hunting and trapping equipment. The programs shall also include instruction on wildlife and natural resource conservation, good conduct and respect for the rights and property of others, and survival in the outdoors. The commission may enter into agreements with public or private agencies and individuals in carrying out the provisions of this subsection.

(b) The department of fish and game shall recruit competent volunteer instructors. The department shall provide training for the instructors in the safe handling of legal hunting and trapping equipment, conservation of wildlife and natural resources, good conduct and respect for the rights and property of others, outdoor survival, and other appropriate subjects for training instructors. Instructors shall be issued certificates and shall on a voluntary basis, give instruction in education programs as established by the department of fish and game, to all eligible applicants.

(c) The commission shall establish fees for each program not to exceed eight dollars (\$8.00) for persons who are age seventeen (17) years and under and not to exceed eight dollars (\$8.00) for persons age eighteen (18) years and older, to be assessed each individual obtaining instruction in hunter education or trapping education for reimbursement for furnished materials. All students successfully completing the course of instruction shall be issued a certificate of completion ~~in hunter safety and good hunting conduct. The department may also issue a youth hunter education graduate hunting license to students successfully completing the course or allow the student to purchase a junior hunting license at a reduced fee pursuant to rules adopted by 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, 2016

CHAPTER 204
(H.B. No. 372)

AN ACT

RELATING TO THE REGULATION OF AUXILIARY CONTAINERS; PROVIDING LEGISLATIVE INTENT; AND AMENDING CHAPTER 23, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2340, IDAHO CODE, TO DEFINE A TERM, TO PROVIDE THAT ANY REGULATION REGARDING THE USE, DISPOSITION OR SALE OR ANY IMPOSITION OF ANY PROHIBITION, RESTRICTION, FEE IMPOSITION OR TAXATION OF AUXILIARY CONTAINERS AT THE RETAIL, MANUFACTURER OR DISTRIBUTOR SETTING SHALL BE DONE ONLY BY STATUTE ENACTED BY THE LEGISLATURE, TO PROVIDE APPLICATION TO RECYCLING PROGRAMS AND TO PROVIDE EXCEPTIONS.

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

SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature that prudent regulation of auxiliary containers is crucial to the welfare of Idaho's economy; that retail and food establishments are sensitive to the costs and regulation of auxiliary containers; and, that if individual political subdivisions of the state regulate such auxiliary containers, there exists the potential for confusing and varying regulations which could lead to unnecessary increased costs for retail and food establishments to comply with such regulations.

SECTION 2. That Chapter 23, 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 67-2340, Idaho Code, and to read as follows:

67-2340. REGULATION OF AUXILIARY CONTAINERS. (1) As used in this section, "auxiliary container" means reusable bags, disposable bags, boxes, cups and bottles which are made of cloth, paper, plastic, extruded polystyrene or similar materials that are designed for one-time use or for transporting merchandise or food from food and retail facilities.

(2) Any regulation regarding the use, disposition or sale or any imposition of any prohibition, restriction, fee imposition or taxation of auxiliary containers at the retail, manufacturer or distributor setting shall be imposed only by statute enacted by the legislature.

(3) Nothing in this section shall be construed to prohibit or limit any county or municipal curbside recycling program or other designated residential or commercial recycling location.

(4) The provisions of subsection (2) of this section shall not apply to the use of auxiliary containers in any event organized, sponsored or permitted by a county, municipality or school district on a property owned by such county, municipality or school district.

Approved March 24, 2016

CHAPTER 205
(H.B. No. 356, As Amended)

AN ACT

RELATING TO THE MILITARY DIVISION; REPEALING SECTION 46-112, IDAHO CODE, RELATING TO THE DUTIES OF THE ADJUTANT GENERAL; AND AMENDING CHAPTER 1, TITLE 46, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 46-112, IDAHO CODE, TO PROVIDE FOR THE DUTIES OF THE ADJUTANT GENERAL.

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

SECTION 1. That Section 46-112, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 1, Title 46, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 46-112, Idaho Code, and to read as follows:

46-112. DUTIES OF THE ADJUTANT GENERAL. (1) The adjutant general shall serve as head of the Idaho military division. The governor, as commander-in-chief, pursuant to his or her authority under section 4, article IV, of the constitution of the state of Idaho, shall administer and control the national guard, as that term is defined in section 46-103, Idaho Code. The adjutant general is responsible to the governor for the execution and publication of all orders relating to the militia, organization, activation, reactivation, inactivation, and allocation of units, recruiting of personnel, public relations, discipline, and training of the national guard and those members of the militia inducted into the service of this state as provided in this chapter. The adjutant general shall act as military chief of staff to the governor and chief of all branches of the militia or agencies within the Idaho military division. The adjutant general may belong to the adjutants general association of the United States and to other organizations for the betterment of the national guard, subscribe to and obtain periodicals, literature, and magazines of such other organizations and pay dues and charges from moneys of this state appropriated for that purpose. Except for the authority expressly reserved for the governor under Idaho law, the adjutant general is responsible for emergency management pursuant to chapter 10, title 46, Idaho Code, and all emergency activities undertaken pursuant to chapter 10, title 46, Idaho Code, are subject to the approval of the adjutant general.

(2) The adjutant general, as the military chief of staff, will:

- (a) Act as military advisor to the governor and perform, as the governor prescribes, military duties not otherwise designated by law;
- (b) Adopt methods of administration for the national guard that are consistent with laws and regulations of the United States department of defense or any subdivision of the United States department of defense;
- (c) Supervise and direct the organization, regulation, instruction, training, discipline, and other activities of the national guard;
- (d) Attest and record all commissions issued by the governor and maintain a register of all commissioned personnel;
- (e) Keep a record of all orders and regulations pertaining to the national guard and all other writings and papers relating to reports and returns of units comprising the national guard and militia, and act as custodian of all such orders, regulations, writings, papers, and returns;
- (f) Superintend the preparation of returns, plans and estimates required by this state, by the department of the army, air force, navy and by the secretary of defense;

(g) Control the use of and care for, preserve and maintain all military property belonging to or issued to this state and pay from moneys appropriated by the state legislature, or allocated to the state from the federal government for these purposes, the necessary expenses for labor and material incurred in the repair of military property;

(h) Dispose of unserviceable military property belonging to this state, in accordance with applicable federal and state laws and regulations;

(i) Pay the members of the national guard when such members are to be paid from state funds, and ensure that the members of the national guard receive pay when such members are to be paid with funds allocated by the federal government;

(j) Be custodian of the seal of the office of adjutant general and deliver the same to his successor, and authenticate with the seal of the office of the adjutant general all orders and copies of orders issued by the adjutant general's office. An authenticated copy has the same force and effect as the original;

(k) Present to the governor before each regular session of the legislature, or as otherwise required, an estimate of the financial requirements for state moneys for operation of the department and the national guard during the next fiscal year, in accordance with section 67-3502, Idaho Code;

(l) Coordinate and plan the execution of state activities pertaining to the inauguration of the governor of the state of Idaho and other elected state executive officers; and

(m) Establish and administer, as in his or her judgment may be necessary and proper for military purposes, morale, welfare, and recreation programs or facilities for the benefit of the members of the Idaho military division and their lawful dependents. The adjutant general may promulgate rules to govern the operation of morale, welfare, and recreation programs or facilities. All proceeds derived from the operation of morale, welfare, and recreation programs or facilities within the state shall, after payment of operating expenses, notwithstanding any provision of Idaho law to the contrary, be used exclusively to benefit any morale, welfare, and recreation programs or facilities established pursuant to this section. Any sales of goods on a state reservation, state training facility, or state military installation under the jurisdiction of the adjutant general are exempt from payment of state sales taxes.

(3) The adjutant general, as head of the Idaho military division, will:

(a) Be the administrator of the division;

(b) Coordinate the functions of the division and offices of the division;

(c) Subject to Idaho law, appoint, suspend, demote, promote or dismiss employees of the division. The adjutant general may delegate this authority;

(d) Appoint an auditor for the division to conduct periodic financial and compliance audits of each office in the division and perform such other duties as prescribed by law. At least annually, the auditor shall audit accounts that are open for more than twelve (12) months. The auditor shall determine within the division compliance with purchase and bidding procedures prescribed by law;

(e) Adopt, with the approval of the governor, rules necessary for the operation of the Idaho military division;

(f) Establish and administer accounts for federal, state or other moneys made available to carry out the functions of the division;

(g) Establish, abolish or reorganize the positions or organizational structure within the Idaho military division, subject to legislative appropriation, if, in the adjutant general's judgment, the modifica-

tion would make the operation of the division more efficient, effective or economical;

(h) Administer the Idaho youth challenge program in accordance with section 46-805, Idaho Code. In addition to moneys appropriated for the program, the adjutant general may accept and spend moneys from any other lawful public or private source; and

(i) Submit to the governor, the president of the senate and the speaker of the house of representatives annually by July 1 a report for the Idaho military division for the preceding fiscal year, including: the strength and condition of the national guard; the business transactions of the division; a detailed statement of expenditures for all military and civilian purposes; the disposition of all military and civilian property on hand or issued; a description of the activity of the Idaho youth challenge program; and a detailed statement of the national guard tuition incentive payments program pursuant to section 46-314, Idaho Code. The adjutant general will also submit any such similar returns and reports as may be required by federal laws and regulations.

(4) The adjutant general, subject only to applicable limitations prescribed under state law or rule, may:

(a) Enter into contracts with individuals, this state, political subdivisions of this state or the federal government and its agencies for the purchase, acquisition, rental or lease of lands, buildings or military material and take title in the name of this state for the establishment and maintenance of armories, subject to legislative appropriation for these purposes;

(b) Procure and contract for procurement of equipment and its issuance to members of the militia inducted into the service of this state;

(c) Enter into agreements and plans with the state universities, community colleges or any educational institution supported by federal or state moneys for promotion of the best interests of the national guard and military training of students of the institutions;

(d) Lease property acquired under this chapter for any public purpose for a period of one (1) year, which period is renewable;

(e) Convey for any public purpose in the name of this state easements on real property acquired under this chapter;

(f) Enter into contracts or agreements with the federal government that are deemed to be in the best interest of this state and the national guard;

(g) Delegate the powers and duties in this section; and

(h) Adopt methods of security for national guard personnel and for national guard reservations or facilities that are consistent with the laws, regulations or directives of the United States department of defense and the laws of this state.

Approved March 24, 2016

CHAPTER 206
(H.B. No. 351)

AN ACT

RELATING TO WATER RESOURCES; AMENDING SECTION 42-1709, IDAHO CODE, TO PROVIDE FOR INSPECTION AND OVERSIGHT ON COMPLAINT OR DIRECTOR'S DETERMINATION, TO PROVIDE FOR WRITTEN REPORTS THAT CERTAIN ARTIFICIAL BARRIERS ARE UNSAFE AND ENDANGERING LIFE OR PROPERTY, TO PROVIDE FOR INSPECTION OF ARTIFICIAL BARRIERS, TO REVISE TERMINOLOGY AND TO PROVIDE FOR THE REGULAR INSPECTION AND REGULATION OF CERTAIN ARTIFICIAL BARRIERS AND EMBANKMENTS; AMENDING SECTION 42-1711, IDAHO CODE, TO REVISE DEF-

INITIATIONS AND TO DEFINE TERMS; AMENDING SECTION 42-1712, IDAHO CODE, TO REVISE CRITERIA RELATING TO THOSE OWNERS REQUIRED TO SUBMIT DUPLICATE PLANS, DRAWINGS AND SPECIFICATIONS OF PROPOSED CONSTRUCTION, ENLARGEMENT, ALTERATION OR REPAIR OF DAMS TO THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES, TO REVISE PROVISIONS RELATING TO PROFESSIONAL ENGINEERS AND THE AUTHENTICATION OF PLANS, DRAWINGS AND SPECIFICATIONS, TO PROVIDE THAT THE DIRECTOR SHALL PREPARE DESIGN AND CONSTRUCTION CRITERIA FOR CERTAIN ARTIFICIAL BARRIERS OR EMBANKMENTS AND SUPPLY SUCH CRITERIA UPON REQUEST BY INTERESTED PERSONS AND TO PROVIDE THAT SUCH CRITERIA SHALL NOT BE THE BASIS OF CERTAIN LIABILITY RELATING TO ARTIFICIAL BARRIERS AND EMBANKMENTS; AND AMENDING SECTION 42-1715, IDAHO CODE, TO REVISE PROVISIONS RELATING TO PROFESSIONAL ENGINEERS AND THE AUTHENTICATION OF PLANS, DRAWINGS AND SPECIFICATIONS.

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

SECTION 1. That Section 42-1709, Idaho Code, be, and the same is hereby amended to read as follows:

42-1709. INSPECTION AND OVERSIGHT ON COMPLAINT OR DIRECTOR'S DETERMINATION. (1) If any person or persons shall report in writing to the director that any dam, artificial barrier or embankment, used for holding that stores or impounds water, except for those excluded in section 42-1711(b) (1) through (4), Idaho Code, or mine tailings impoundment structure used for storing tailings slurry is unsafe and endangering life or property, then it shall be the duty of the director to inspect, or cause to be inspected, such dam, artificial barrier or embankment or mine tailings impoundment structure as soon as possible, and, if he considers it unsafe, to proceed as provided in the following sections this chapter.

(2) If the director determines that the failure of any artificial barrier or embankment that stores or impounds water, except for those excluded in section 42-1711(b) (1) through (4), Idaho Code, would pose a threat of direct loss of life or significant property damage, the director shall regularly inspect and regulate it as a dam as provided in this chapter.

SECTION 2. That Section 42-1711, Idaho Code, be, and the same is hereby amended to read as follows:

42-1711. DEFINITIONS. Unless the context otherwise requires, the following definitions govern the construction of this chapter.

(a) "Department" means the department of water resources.

(b) "Dam" means any artificial barrier or embankment, together with appurtenant works, constructed for the purpose of storing water or that stores water, which is ten (10) feet or more in height from the natural bed of the stream or watercourse at the downstream toe of the barrier, as determined by the department, or from the lowest elevation of the outside limit of the barrier, if it is not across a stream channel or watercourse, to the maximum water storage elevation, ~~or and~~ has or will have an impounding capacity at maximum water storage elevation of fifty (50) acre-feet or more. The following are not included as regulated dams or are not considered dams for the purposes of sections 42-1710 through 42-1721, Idaho Code; ~~provided however, barriers defined in paragraphs (1) and (2), below, shall remain under the exclusive jurisdiction of the department:~~

(1) ~~Barriers constructed in low risk areas as determined by the director, which are six (6) feet or less in height, regardless of storage capacity.~~

(2) ~~Barriers constructed in low risk areas as determined by the director, which impound ten (10) acre-feet or less at maximum water storage elevation, regardless of height.~~

(3) Barriers in a canal used to raise or lower water therein or divert water therefrom.

(42) Fills or structures determined by the director to be designed primarily for highway or railroad traffic.

(53) Fills, retaining dikes or structures less than twenty (20) feet in height, which are under jurisdiction of the department of environmental quality or the department of agriculture, determined by the director of the department of water resources to be designed primarily for retention or treatment of municipal, livestock, or domestic wastes, or sediment and wastes from produce washing or food processing plants.

(64) Levees that store water regardless of storage capacity.

(c) "Levee" means a retaining structure alongside a natural lake which has a length that is two hundred (200) times or more greater than its greatest height measured from the lowest elevation of the toe to the maximum crest elevation of the retaining structure.

(d) "Reservoir" means any basin which contains or will contain the water impounded by a dam.

(e) "Owner" includes any of the following who own, control, operate, maintain, manage, or propose to construct a dam, reservoir or mine tailings impoundment structure:

(1) The state of Idaho and its departments, agencies, institutions and political subdivisions;

(2) The United States of America and any of its departments, bureaus, agencies and institutions; provided that the United States of America shall not be required to pay any of the fees required by section 42-1713, Idaho Code, and shall submit plans, drawings and specifications as required by section 42-1712, Idaho Code, for information purposes only;

(3) Every municipal or quasi-municipal corporation;

(4) Every public utility;

(5) Every person, firm, association, organization, partnership, business trust, corporation or company;

(6) The duly authorized agents, lessees, or trustees of any of the foregoing; or

(7) Receivers or trustees appointed by any court for any of the foregoing.

(f) "Alterations," "repairs," or either of them, mean only such alterations or repairs as may directly affect the safety of the dam, reservoir or mine tailings impoundment structure, as determined by the department.

(g) "Enlargement" means any change in or addition to an existing dam, reservoir or mine tailings impoundment structure, which raises or may raise the water storage elevation of the water impounded by the dam or mine tailings slurry impounded by the mine tailings impoundment structure.

(h) "Maximum wWater storage elevation" means the maximum design elevation of water surface which can be obtained impounded by the dam or reservoir.

(i) "Storage capacity" means the total volume of storage at the maximum water storage elevation.

(j) "Days" used in establishing deadlines means calendar days including Sundays and holidays.

(k) "Certificate of approval" means a certificate issued by the director for all dams or mine tailings impoundment structures listing restrictions imposed by the director, and without which no new dams shall be allowed to impound water or mine tailings impoundment structures shall be allowed to impound mine tailings slurry.

(l) "Mine tailings impoundment structure" means any artificial embankment which is or will be more than thirty (30) feet in height measured from the lowest elevation of the toe to the maximum crest elevation constructed for the purpose of storing mine tailings slurry.

(m) "Lift construction" means mine tailings impoundment structure enlargement by raising the elevation of the structure on a continuous or recurring basis. Such practice will be considered under construction until the structure reaches its final crest elevation.

(n) "Mine tailings impoundment elevation" means the maximum elevation of stored mine tailings which can be obtained by the impounding structure.

(o) "Mine tailings slurry" means all slurry wastes from a mineral processing or mining operation.

(p) "Mine tailings storage capacity" means the total storage volume of the impounding area when filled with tailings to the maximum designed storage elevation.

(q) "Hazard" means the potential consequences to downstream life and property resulting from a dam failure and uncontrolled release of water, exclusive of the size or the physical condition of the dam or mine tailings impoundment structure. Hazard classifications shall be assigned to new and existing dams or mine tailings impoundment structures based on the severity of failure consequences to life and property.

(r) "Professional engineer" means a person who has been duly licensed as a professional engineer by the Idaho board of licensure of professional engineers and professional land surveyors under chapter 12, title 54, Idaho Code.

(s) "Artificial barrier or embankment" means any structure constructed to impede or obstruct the flow of water.

SECTION 3. That Section 42-1712, Idaho Code, be, and the same is hereby amended to read as follows:

42-1712. CONSTRUCTION, ENLARGEMENT, ALTERATION OR REPAIR OF DAMS -- SUBMISSION OF DUPLICATE PLANS, DRAWINGS AND SPECIFICATIONS. Owners who shall desire to construct, or enlarge, or alter or repair, meaning only such alterations or repairs as may affect the safety of the dam or reservoir, any dam, for the purpose of storing or appropriating or diverting any of the waters of this state, when the same is to be ~~more than twenty ten~~ 210 feet or more in height ~~or have~~ and having a storage capacity of ~~one hundred fifty~~ 1050 acre-feet or more, except as otherwise in this chapter provided, shall submit duplicate plans, drawings and specifications of the proposed work to the director, and construction of a new dam or enlargement, or alteration or repairs shall not be commenced until the owner has applied for and obtained written approval of the plans, drawings and specifications.

Owners of dams under construction on the effective date of this legislation and for which plans, drawings and specifications are required but have not been approved on or before the effective date of this legislation shall submit such plans, drawings and specifications for approval, with the fee established hereinafter. The director shall give notice to owners to submit plans, drawings and specifications, and failure to submit plans, drawings and specifications for approval within thirty (30) days of the date of mailing the notice shall be punishable as provided in this act, and construction shall be stopped upon issuance of an order by the director unless for good cause shown as determined by the director further time is allowed. The notice and/or order provided for in this paragraph may be given by certified mail and a return receipt signed by the owner or responsible company shall constitute prima facie evidence of service.

Upon receipt of the plans, drawings and specifications, the director shall give consideration thereto and shall approve or disapprove the same within the time provided in this section, and if he approves them, the director shall affix his approval thereto and return one (1) copy of each such plans, drawings and specifications, with his approval, to the party or parties proposing to construct the works.

Plans, drawings and specifications submitted to the director complete with fees shall be approved or disapproved in no more than sixty (60) days and in no less than fourteen (14) days after receipt. Defective plans, drawings and specifications made in a bona fide attempt to conform to the law and rules of the water resource board shall not be rejected but notice of defect shall be sent to the owner by certified mail. If within thirty (30) days of the date of mailing the notice the owner does not file amended and perfected plans, drawings and specifications, the plans, drawings and specifications shall be rejected and canceled unless for good cause shown the director allows the owner further time.

The construction of all dams under plans, drawings and specifications approved by the director shall be pursued with reasonable diligence to completion. In the event that an owner fails to commence actual construction and maintain reasonable construction progress of the dam under the plans, drawings and specifications approved by the director prior to or after the effective date of this act, such approval may be voided by the director one (1) year after such approval. Notice of the intent to void any such approval shall be sent by the director to the owner by certified mail and said owner shall be allowed thirty (30) days within which to show cause why such approval should not be voided. The director may grant additional time within which to commence the construction under plans, drawings and specifications approved by the director upon a showing of reasonable cause. Plans, drawings and specifications for which approval has become void must be resubmitted for approval, with the fee therefor as hereafter provided, prior to commencing construction of any such dam.

The plans, drawings and specifications shall include the following information:

- (a) The name and address of the owner.
- (b) The location, type, size and height of the proposed dam or reservoir and appurtenant works.
- (c) The storage capacity of the reservoir.
- (d) Such other pertinent information as the director may require including the following:
 - (1) Data concerning subsoil and foundation conditions and materials entering into construction of the dam or reservoir.
 - (2) Investigations of, and reports on subsurface conditions involving such matters as exploratory pits, trenches, and adits, drilling, coring, geophysical surveys, tests to determine leakage rates, and physical tests to measure in place the properties and behavior of foundation materials at the dam or reservoir site.
 - (3) Investigation of and reports on the geology of the dam or reservoir site and its vicinity, possible geological hazards, availability and quality of construction materials, and other pertinent factors.

The plans, drawings and specifications shall be of such character and size setting forth such pertinent details and dimensions and in such form as the director requires. Plans, drawings and specifications which are submitted to the department shall be prepared by or under the direction of a registered professional engineer ~~who is registered pursuant to Idaho law and authenticated by him as provided in section 54-1215, Idaho Code, or by such other person as provided in section 54-1223, Idaho Code.~~

Where said dam is, in the opinion of the director, not of sufficient importance to have the provisions of the section apply to such dam, then the director shall have power, upon written application, to suspend the provisions of this section in regard to such dam.

The director shall prepare design and construction criteria for dams and artificial barriers not requiring departmental approval of plans, drawings and specifications or embankments that store water, that are not dams as defined in this chapter, and shall supply such criteria upon request to any interested person to aid in constructing such dams and artificial barriers

or embankments. The use of such criteria shall in no way relieve the owner of responsibility for adequacy of design and construction procedures, nor be the basis of liability for any city or county that grants a permit related to construction of the ~~dam or~~ artificial barrier or embankment pursuant to the provisions of chapter 65, title 67, Idaho Code.

SECTION 4. That Section 42-1715, Idaho Code, be, and the same is hereby amended to read as follows:

42-1715. INSPECTION DURING CONSTRUCTION, ENLARGEMENT, ALTERATION, REPAIR OR REMOVAL OF DAMS AND MINE TAILINGS IMPOUNDMENT STRUCTURES -- EFFECT OF NONCOMPLIANCE. During the construction, enlargement, repair, alteration, or removal of any dam, reservoir or mine tailings impoundment structure, the director shall make or cause to have made continuous or periodical inspections at state expense for the purpose of securing conformity with the approved plans and specifications, but shall require the owner to perform at his expense such work or tests as necessary to disclose information sufficient to enable him to determine that conformity with the approved plans and specifications is being secured, which shall include adequate inspection, at owner's expense to verify compliance with approved plans, drawings and specifications.

The work of construction, enlargement, repair, alteration or removal of a dam, reservoir or mine tailings impoundment structure, for which approved plans, drawings and specifications are required, shall be under the responsible charge of a registered professional engineer ~~who is registered according to Idaho law or by such other person as provided in section 54-1223, Idaho Code,~~ and who shall certify that such construction, enlargement, repair, alteration or removal was done in accordance with approved plans, drawings and specifications. If, after any inspections, investigations or examinations, or at any time as the work progresses, or at any time prior to issuance of a certificate of approval, it is found by the director that amendments, modifications or changes are necessary to insure safety, the director may order the owner to revise the plans and specifications. If conditions are revealed which will not permit the construction of a safe dam, reservoir or mine tailings impoundment structure, the approval may be revoked. In the event that conditions imposed may be waived or made less burdensome without sacrificing a proper margin of safety, the director may authorize an owner to revise the plans and specifications accordingly. If at any time during construction, enlargement, repair or alterations of any dam, reservoir or mine tailings impoundment structure the director finds that the work is not being done in accordance with the provision of the approval and the approved plans and specifications, he shall give a written notice and order by certified mail or by personal service to the owner. The notice and order shall state the particulars in which the approval and approved plans and specifications or the approval and approved plans and specifications as revised are not being or have not been complied with and shall order the immediate compliance with the approval and approved revised plans and specifications as the case may be. The director may order that no further work be done until such compliance has been effected and approved by him. A failure to comply with the approval and approved plans and specifications as originally approved or as revised shall render the approval subject to revocation by the director, if compliance is not made in accordance therewith after notice and order from him as provided in this chapter.

Approved March 24, 2016

CHAPTER 207
(H.B. No. 350)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-409, IDAHO CODE, TO REVISE AGE PROVISIONS ASSOCIATED WITH THE PURCHASE OF WILDLIFE MANAGEMENT AREA UPLAND GAME BIRD PERMITS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 36-409, Idaho Code, be, and the same is hereby amended to read as follows:

36-409. GAME TAGS -- PERMITS -- FEES -- PENALTY. (a) Resident Game Tags. A resident who has obtained authorization to hunt, as provided in section 36-401, Idaho Code, or has purchased or obtained a license to hunt, as provided in section 36-406, Idaho Code, upon payment of the fees provided herein shall be eligible to receive a resident game tag to hunt and kill a moose, bighorn sheep, mountain goat, elk, deer, antelope, mountain lion, bear, wolf, sandhill crane or turkey in accordance with the laws of this state and rules promulgated by the commission; provided further, that any person who holds a senior resident combination license or any person who holds a junior combination or hunting license or any disabled American veteran who holds a disabled combination license, may be issued a bear, deer, elk, or turkey tag for a fee as specified in section 36-416, Idaho Code; provided further, that resident game tags may be issued only to those persons who meet residency requirements of subsection (s) of section 36-202, Idaho Code. In the event an emergency is declared to open a season to protect private property as provided in section 36-106(e)6.(B), Idaho Code, the affected landowner or his designee shall be eligible to receive a resident deer, elk or antelope tag without charge; provided further, that resident game tags may be issued only to persons who qualify as residents pursuant to section 36-202, Idaho Code.

(b) Nonresident Game Tags. A nonresident who has purchased a license to hunt, as provided in section 36-407(a) or (k), Idaho Code, or has obtained a license to hunt, as provided in section 36-406(e), Idaho Code, or a resident who has purchased or obtained a license or authorization to hunt, as provided in section 36-401 or 36-406, Idaho Code, upon payment of the fees provided herein, shall be eligible to receive a nonresident tag to hunt and kill a moose, bighorn sheep, mountain goat, elk, deer, antelope, mountain lion, bear, wolf, sandhill crane or turkey in accordance with the laws of this state and rules promulgated by the commission; provided further, that a nonresident who has purchased a license to hunt, as provided in section 36-407(k), Idaho Code, shall be eligible to receive a junior mentored deer, elk, bear, or turkey tag for a fee as specified in section 36-416, Idaho Code.

(c) Game Tags Required. The appropriate tag must be had for the hunting or taking of each and every one of the aforementioned wildlife. The commission shall promulgate rules to allow exception from tag possession to take wildlife for a disabled hunter companion who is assisting a hunter possessing the appropriate tag and a valid disabled combination license or a disabled archery permit or a disabled hunt motor vehicle permit or who is a disabled veteran participating in a hunt as provided in section 36-408(7), Idaho Code. Provided, however, that the requirements for a wolf tag, a mountain lion tag or a bear tag, as to different periods of time and areas of the state, shall be determined and specified by the commission. Provided further, that the commission may promulgate rules to allow a nonresident deer or elk tag to be used to hunt and kill either a bear, wolf or a mountain lion during the open season for deer or elk in that area, unit or zone as may

be specified by the commission. All of said tags are to bear and have serial numbers.

(d) Game Tag to Be Validated and Attached to Carcass. As soon as any person kills any wildlife for which a tag is required, said tag, belonging to him, must be validated and attached to said wildlife in a manner provided by commission rule.

(e) Archery Permits. In addition to meeting the license and tag requirements provided in this chapter, any person participating in any controlled or general game season which has been specifically designated as an archery hunt must have in his possession an archery hunt permit, which may be purchased for a fee as specified in section 36-416, Idaho Code.

(f) Muzzleloader Permit. In addition to meeting the license and tag requirements provided in this chapter, any person participating in any controlled or general game season which has been specifically designated as a muzzleloader hunt must have in his possession a muzzleloader permit, which may be purchased for a fee as specified in section 36-416, Idaho Code.

(g) Hound Hunter Permit -- Resident -- Nonresident. Any person using a dog for the purpose of hunting or for taking, as defined in section 36-202, Idaho Code, big game or furbearing animals must have in his possession a valid hound hunter permit, which may be purchased by resident and nonresident license holders for a fee as specified in section 36-416, Idaho Code.

(h) Nonresident Bird of Prey Capture Permit. The commission may, under rules as it may prescribe, issue a nonresident bird of prey capture permit. This capture permit may be purchased by any licensed, nonresident falconer for capturing birds of prey in Idaho. The fee for the permit shall be as specified in section 36-416, Idaho Code, and the permit shall be issued under the condition that the nonresident's home state allows reciprocal raptor capturing privileges for Idaho falconers.

(i) Wildlife Management Area (WMA) Upland Game Bird Permit. The commission may, under rules as it may prescribe, issue a wildlife management area upland game bird permit that must be purchased by all persons over ~~sixteen~~ seventeen (167) years of age prior to hunting stocked upland game birds on state wildlife management areas designated by the commission. The fee for the permit shall be as specified in section 36-416, Idaho Code.

(j) Bear Baiting Permit. The commission may, under rules as it may prescribe, issue a bear baiting permit. Any person placing or using bait as may be allowed by rule for the purpose of attracting bear must have in his possession a valid bear baiting permit, which may be purchased by a license holder for a fee as specified in section 36-416, Idaho Code.

(k) Migratory Bird Harvest Information Program Permit. The commission may, as provided by federal laws or regulations and under rules as it may prescribe, issue a migratory bird harvest information program permit that must be purchased by all persons prior to hunting migratory game birds as required by federal law or regulations. The fee for the permit shall be as specified in section 36-416, Idaho Code.

(l) Dog Field Trial Permit. The commission may, under rules as it may prescribe, issue a dog field trial permit to any person using birds for dog field trials or training as may be allowed by rule. The permit may be purchased for a fee as specified in section 36-416, Idaho Code.

(m) Idaho Nursing Home Facility Resident Fishing Permit. The commission may, under rules as it may prescribe, issue an Idaho nursing home facility resident fishing permit that must be purchased by an Idaho nursing home facility to allow residents of its facility to fish during the open season. Facilities eligible to purchase this permit are: intermediate care facilities providing twenty-four (24) hour skilled nursing care, assisted living facilities providing twenty-four (24) hour extensive assistance, and skilled nursing facilities providing twenty-four (24) hour skilled nursing. By purchasing this permit the facility assumes full responsibility for and control over the facility residents while using the permit. All laws, rules

and proclamations apply to the use of this permit and it is the responsibility of the facility to assure compliance with all laws, rules and proclamations. In case of a violation the facility shall be held accountable and any citations shall be issued to the facility. The permit may be purchased for a fee as specified in section 36-416, Idaho Code.

(n) Disabled American Veteran Game Tags. Any nonresident disabled American veteran participating in a hunt in association with a qualified organization may be issued a bear, deer, elk or turkey tag for a fee as specified in section 36-416, Idaho Code. "Qualified organization," as used in association with these tags, shall be as defined in section 36-408(7), Idaho Code.

Approved March 24, 2016

CHAPTER 208
(S.B. No. 1389)

AN ACT

RELATING TO CONCEALED WEAPONS; AMENDING SECTION 18-3302, IDAHO CODE, TO REVISE PROVISIONS REGARDING CONCEALED WEAPONS AND TO PROVIDE CORRECT CODE REFERENCES; AND AMENDING SECTION 18-3302C, IDAHO CODE, TO REVISE PROVISIONS REGARDING PROHIBITED CONDUCT.

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

SECTION 1. That Section 18-3302, Idaho Code, be, and the same is hereby amended to read as follows:

18-3302. CONCEALED WEAPONS. (1) The legislature hereby finds that the people of Idaho have reserved for themselves the right to keep and bear arms while granting the legislature the authority to regulate the carrying of weapons concealed. The provisions of this chapter regulating the carrying of weapons must be strictly construed so as to give maximum scope to the rights retained by the people.

(2) As used in this chapter:

(a) "Concealed weapon" means any deadly weapon carried on or about the person in a manner not discernible by ordinary observation;

(b) "Deadly weapon" means:

(i) Any dirk, dirk knife, bowie knife, dagger or firearm;

(ii) Any other weapon, device, instrument, material or substance that is designed and manufactured to be readily capable of causing death or serious bodily injury; or

(iii) Any other weapon, device, instrument, material or substance that is intended by the person to be readily capable of causing death or serious bodily injury.

(c) The term "deadly weapon" does not include:

(i) Any knife, cleaver or other instrument that is intended by the person to be used in the processing, preparation or eating of food;

(ii) Any knife with a blade four (4) inches or less; or

(iii) Any taser, stun-gun, pepper spray or mace;

(d) "Firearm" means any weapon that will, is designed to, or may readily be converted to, expel a projectile by the action of an explosive;

(e) "Loaded" means:

(i) For a firearm capable of using fixed ammunition, that live ammunition is present in:

1. The chamber or chambers of the firearm;

2. Any internal magazine of the firearm; or

3. A detachable magazine inserted in the firearm;

(ii) For a firearm that is not capable of using fixed ammunition, that the firearm contains:

1. A propellant charge; and
2. A priming cap or primer cap.

(3) No person shall carry concealed weapons on or about his person without a license to carry concealed weapons, except:

- (a) In the person's place of abode or fixed place of business;
- (b) On property in which the person has any ownership or leasehold interest;
- (c) On private property where the person has permission to carry concealed weapons from any person with an ownership or leasehold interest;
- (d) Outside the limits of or confines of any city, if the person is over eighteen (18) years of age and is not otherwise disqualified from being issued a license under subsection (11) of this section.

(4) Subsection (3) of this section shall not apply to restrict or prohibit the carrying or possession of:

- (a) Any deadly weapon located in plain view;
- (b) Any lawfully possessed shotgun or rifle;
- (c) A firearm that is not loaded and is concealed in a motor vehicle;
- (d) A firearm that is not loaded and is secured in a case; and
- (e) A firearm that is disassembled or permanently altered such that it is not readily operable; and
- (f) A concealed handgun by a person who is:
 - (i) Over twenty-one (21) years of age;
 - (ii) A resident of Idaho; and
 - (iii) Is not disqualified from being issued a license under subsection (11) of this section.

(5) The requirement to secure a license to carry concealed weapons under this section shall not apply to the following persons:

- (a) Officials of a city, county or the state of Idaho;
- (b) Any publicly elected Idaho official;
- (c) Members of the armed forces of the United States or of the national guard when in performance of official duties;
- (d) Criminal investigators of the attorney general's office and criminal investigators of a prosecuting attorney's office, prosecutors and their deputies;
- (e) Any peace officer as defined in section 19-5101(d), Idaho Code, in good standing;
- (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 physical possession of his valid license or permit authorizing him to carry concealed weapons from another state; and
- (h) Any person who has physical possession of a valid license or permit from a local law enforcement agency or court of the United States authorizing him to carry concealed weapons.

(6) The sheriff of the county of the applicant's residence or, if the applicant has obtained a protection order pursuant to chapter 63, title 39, Idaho Code, the sheriff of a county where the applicant is temporarily residing may issue a temporary emergency license for good cause pending review of an application made under subsection (7) of this section. Temporary emergency licenses must be easily distinguishable from regular licenses. A temporary emergency license shall be valid for not more than ninety (90) days.

(7) The sheriff of a county, on behalf of the state of Idaho, must, within ninety (90) days after the filing of a license application by any person who is not disqualified as provided herein from possessing or receiving a firearm under state or federal law, issue a license to the person to carry

concealed weapons on his person within this state. Such license shall be valid for five (5) years from the date of issuance.

(8) The sheriff must make license applications readily available at the office of the sheriff, at other public offices in his or her jurisdiction and on the website of the Idaho state police. The license application shall be in a form to be prescribed by the director of the Idaho state police and must meet the following requirements:

(a) The license application shall require the applicant's name, address, description, signature, date of birth, place of birth, military status, citizenship and the driver's license number or state identification card number if used for identification in applying for the license. Provided however, that if the applicant is not a United States citizen and is legally in the United States, the application must also require any alien or admission number issued to the applicant by United States immigration and customs enforcement or any successor agency;

(b) The license application may ask the applicant to disclose his social security number but must indicate that disclosure of the applicant's social security number is optional; and

(c) The license application must contain a warning that substantially reads 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.

(9) The sheriff may require the applicant to demonstrate familiarity with a firearm and must accept any one (1) of the following as evidence of the applicant's familiarity with a firearm:

(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 or any equivalent 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 offered for any division or subdivision of a law enforcement agency or security enforcement agency;

(e) Evidence of equivalent experience with a firearm through participation in organized shooting competition or military service;

(f) Is currently licensed to carry concealed weapons pursuant to this section, unless the license has been revoked for cause;

(g) Completion of any firearms training or safety course or class conducted by a state certified or national rifle association certified firearms instructor; or

(h) Other training that the sheriff deems appropriate.

(10) Any person applying for original issuance of a license to carry concealed weapons must submit his fingerprints with the completed license application. Within five (5) days after the filing of an application, the sheriff must forward the applicant's completed license application and fingerprints to the Idaho state police. The Idaho state police must 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 for conditions or commitments that would disqualify a person from possessing a firearm under state or federal law, and return the results to the sheriff within sixty (60) days. If the applicant is not a United States citizen, an immigration alien query must also be conducted through United States immigration and customs enforcement or any successor agency. 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 subsection (11) of this section. The sheriff may deny a license to carry concealed weapons to an alien if background information is not attainable or verifiable.

(11) A license to carry concealed weapons shall not be issued to any person who:

- (a) Is under twenty-one (21) years of age, except as otherwise provided in this section;
- (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 marijuana or any depressant, stimulant or narcotic drug, or any controlled substance as defined in 21 U.S.C. section 802;
- (f) Is currently suffering from or has been adjudicated as having suffered from any of the following conditions, 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, Idaho Code.
- (g) Has been discharged from the armed forces under dishonorable conditions;
- (h) ~~Has been adjudicated guilty of or received a withheld judgment or suspended sentence for a crime of violence constituting a misdemeanor or a crime that would disqualify him from obtaining a concealed weapons license, unless three (3) years have elapsed since entry of judgment or successful completion of probation prior to the date on which the application is submitted punishable by imprisonment for a term exceeding one (1) year, unless the person has successfully completed probation;~~
- (i) Has received a period of probation after having been adjudicated guilty of, or received a withheld judgment for, a misdemeanor offense that has as an element the intentional use, attempted use or threatened use of physical force against the person or property of another, unless the person has successfully completed probation;
- (j) Is an alien illegally in the United States;
- (jk) Is a person who having been a citizen of the United States has renounced his or her citizenship;
- (kl) Is free on bond or personal recognizance pending trial, appeal or sentencing for a crime which would disqualify him from obtaining a concealed weapons license;
- (lm) 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; or

(mn) Is for any other reason ineligible to own, possess or receive a firearm under the provisions of Idaho or federal law.

(12) In making a determination in relation to an applicant's eligibility under ~~this subsection~~ (11) of this section, the sheriff shall not consider:

(ia) A conviction, guilty plea or adjudication that has been nullified by expungement, pardon, setting aside or other comparable procedure by the jurisdiction where the conviction, guilty plea or adjudication occurred or in respect of which conviction, guilty plea or adjudication the applicant's civil right to bear arms either specifically or in combination with other civil rights has been restored under operation of law or legal process; or

(iib) Except as provided for in ~~paragraph (f) of this subsection~~ (11) (f) of this section, an adjudication of mental defect, incapacity or illness or an involuntary commitment to a mental institution if the applicant's civil right to bear arms has been restored under operation of law or legal process.

(123) A license to carry concealed weapons must be in a form substantially similar to that of the Idaho driver's license and must meet the following specifications:

(a) The license must provide the licensee's name, address, date of birth and the driver's license number or state identification card number if used for identification in applying for the license;

(b) The license must bear the licensee's signature and picture; and

(c) The license must provide the date of issuance and the date on which the license expires.

(134) Upon issuing a license under the provisions of this section, the sheriff must notify the Idaho state police within three (3) business 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.

(145) The fee for original issuance of a license shall be twenty dollars (\$20.00), which the sheriff must retain for the purpose of performing the duties required in this section. The sheriff may collect the actual cost of any additional fees necessary to cover the cost of processing fingerprints lawfully required by any state or federal agency or department, and the actual cost of materials for the license lawfully required by any state agency or department, which costs must be paid to the state. The sheriff must provide the applicant with a copy of the results of the fingerprint-based records check upon request of the applicant.

(156) The fee for renewal of the license shall be fifteen dollars (\$15.00), which the sheriff must retain for the purpose of performing the duties required in this section. The sheriff may collect the actual cost of any additional fees necessary to cover the processing costs lawfully required by any state or federal agency or department, and the actual cost of materials for the license lawfully required by any state agency or department, which costs must be paid to the state.

(167) 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. The sheriff must mail renewal notices 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 must submit the application to the Idaho state police for a records check of state and national databases. The Idaho state police must 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 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 must pay a late renewal penalty of ten dollars (\$10.00) in addition to the renewal fee unless waived by the sheriff, 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 must submit an initial application for a license and pay the fees prescribed in subsection (145) 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 must notify the Idaho state police within five (5) days on a form or in a manner prescribed by the Idaho state police.

(178) No city, county or other political subdivision of this state shall modify or add to the requirements of this section, nor shall a city, county or political subdivision ask the applicant to voluntarily submit any information not required in this section. A civil action may be brought to enjoin a wrongful refusal to issue a license or a wrongful modification of the requirements of this section. The civil action may be brought in the county in which the application was made or in Ada county at the discretion of the petitioner. Any person who prevails against a public agency in any action in the courts for a violation of this section must be awarded costs, including reasonable attorney's fees incurred in connection with the legal action.

(189) 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 in compliance with this section.

(1920) ~~The sheriff of a county may shall 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, except for the age requirement contained in section 18-3302K(4), Idaho Code, would otherwise meet the requirements for issuance of a license under section 18-3302K, Idaho Code. 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 under this subsection shall be easily distinguishable from licenses issued pursuant to subsection (7) of this section. A license issued pursuant to this subsection after July 1, 2016, shall expire on the twenty-first birthday of the licensee. A licensee, upon attaining the age of twenty-one (21), shall be allowed to renew the license under the procedure contained in section 18-3302K(9), Idaho Code. Such renewal license shall be issued as an enhanced license pursuant to the provisions of section 18-3302K, Idaho Code.~~

(201) A person carrying a concealed weapon in violation of the provisions of this section shall be guilty of a misdemeanor.

(212) 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.

(223) A person twenty-one (21) years of age or older who presents a valid license to carry concealed weapons 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. Provided however, a temporary emergency license issued pursuant to subsection (6) of this section shall not exempt the holder of the license from any records check requirement.

(234) The attorney general must contact the appropriate officials in other states for the purpose of establishing, to the extent possible, recognition and reciprocity of the license to carry concealed weapons by other states, whether by formal agreement or otherwise. The Idaho state police must keep a copy and maintain a record of all such agreements and reciprocity recognitions, which must be made available to the public.

(245) Nothing in subsection (3) or (4) of this section shall be construed to limit the existing rights of a private property owner, private tenant, private employer or private business entity.

(256) 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 2. That Section 18-3302C, Idaho Code, be, and the same is hereby amended to read as follows:

18-3302C. PROHIBITED CONDUCT. Any person obtaining a license under the provisions of section 18-3302, Idaho Code, or carrying a concealed deadly weapon pursuant to the provisions of section 18-3302(4)(f), Idaho Code, shall not:

(1) Carry a concealed weapon in a courthouse~~;~~ juvenile detention facility or jail~~;~~ public or private school, except as provided in subsection (4)(f) of section 18-3302D, Idaho Code; provided that, this subsection shall not apply to:

- (a) Peace officers while acting within the scope of their employment;
- (b) Security personnel while actually engaged in their employment; or
- (c) Any person who is authorized to carry a weapon by a person, board or other entity having authority over the building or facility; or

(2) Provide information on the application for a permit to carry a concealed weapon knowing the same to be untrue.

Any person violating the provisions of this section shall be guilty of a misdemeanor.

Approved March 24, 2016

CHAPTER 209
(H.B. No. 511)

AN ACT

RELATING TO HOMEOWNER'S ASSOCIATIONS; AMENDING SECTION 55-115, IDAHO CODE, TO PROVIDE ADDITIONAL PROHIBITED CONDUCT REGARDING COVENANTS, CONDITIONS OR RESTRICTIONS BY HOMEOWNER'S ASSOCIATIONS WITH EXCEPTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 55-115, Idaho Code, be, and the same is hereby amended to read as follows:

55-115. HOMEOWNER'S ASSOCIATION -- PROHIBITED CONDUCT. (1) As used in this section:

(a) "Homeowner's association" shall have the same meaning as in section 45-810(6), Idaho Code.

(b) "Board" means the entity that has the duty of governing the association that may be referred to as the board of directors, executive board or any such similar name.

(c) "Member" or "membership" means any person or entity owning or possessing an interest in residential real property or lot within the physical boundaries of an established homeowner's association.

(2) No fine may be imposed for a violation of the covenants and restrictions pursuant to the rules or regulations of the homeowner's association unless the authority to impose a fine is clearly set forth in the covenants and restrictions and:

(a) A majority vote by the board shall be required prior to imposing any fine on a member for a violation of any covenants and restrictions pursuant to the rules and regulations of the homeowner's association.

(b) Written notice by personal service or certified mail of the meeting during which such vote is to be taken shall be made to the member at least thirty (30) days prior to the meeting.

(c) In the event the member begins resolving the violation prior to the meeting, no fine shall be imposed so long as the member continues to address the violation in good faith until fully resolved.

(d) No portion of any fine may be used to increase the remuneration of any board member or agent of the board.

(e) No part of this section shall affect any statute, rule, covenant, bylaw, provision or clause that may allow for the recovery of attorney's fees.

(3) No homeowner's association may add, amend or enforce any covenant, condition or restriction in such a way that limits or prohibits the rental, for any amount of time, of any property, land or structure thereon within the jurisdiction of the homeowner's association, unless expressly agreed to in writing at the time of such addition or amendment by the owner of the affected property. Nothing in this section shall be construed to prevent the enforcement of valid covenants, conditions or restrictions limiting a property owner's right to transfer his interest in land or the structures thereon so long as that covenant, condition or restriction applied to the property at the time the homeowner acquired his interest in the property.

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, 2016

CHAPTER 210
(S.B. No. 1341, As Amended)

AN ACT

RELATING TO RESIDENTIAL CARE OR ASSISTED LIVING FACILITIES; AMENDING SECTION 39-3357, IDAHO CODE, TO PROVIDE THAT RESIDENTIAL CARE OR ASSISTED LIVING FACILITIES MAY BE CITED ONLY FOR VIOLATIONS OF A REQUIREMENT THAT IS SPECIFIED IN AN APPLICABLE LAW OR RULE.

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

SECTION 1. That Section 39-3357, Idaho Code, be, and the same is hereby amended to read as follows:

39-3357. ENFORCEMENT PROCESS. (1) If the licensing agency finds, on the basis of inspections as defined in this chapter or otherwise, that a residential or assisted living facility no longer meets a requirement of this chapter, and further finds that the facility's deficiencies:

(a) Immediately jeopardize the health or safety of its residents, the department shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in section 39-3358(1)(c), Idaho Code, or prohibit the facility from keeping or admitting residents and may provide, in addition, for one (1) or more of the other remedies described in section 39-3358, Idaho Code.

(b) Do not immediately jeopardize the health or safety of its residents, the department shall provide for one (1) or more of the remedies described in section 39-3358, Idaho Code.

(2) Nothing in this section shall be construed as restricting the remedies available to the department to remedy a facility's deficiencies. If the department finds that a facility meets the requirements of this chapter, but, as of a previous period, intentionally did not meet such requirements, the department may provide for a civil money penalty under section 39-3358(1)(b), Idaho Code, for the days in which it finds that the facility was not in compliance with such requirements.

(3) Residential care or assisted living facilities may be cited only for a violation of a requirement that is specified in an applicable law or in a rule promulgated in compliance with an applicable law. Facilities may not be cited for an act that is not expressly proscribed by an applicable law or rule or for an omission when an applicable law or rule does not expressly require the conduct omitted. If the department requires a specific corrective action in relation to a citation, that requirement must be in writing and reference the corresponding rule.

Approved March 28, 2016

CHAPTER 211
(S.B. No. 1347, As Amended)

AN ACT

RELATING TO TAX DEED SALES; AMENDING SECTION 31-808, IDAHO CODE, TO ALLOW TRANSFER OF THE AUTHORITY AND RESPONSIBILITY OF HANDLING EXCESS PROCEEDS FROM TAX DEED SALES TO THE STATE TREASURER AND TO PROVIDE DUTIES OF THE BOARD OF COUNTY COMMISSIONERS.

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

SECTION 1. That Section 31-808, Idaho Code, be, and the same is hereby amended to read as follows:

31-808. SALE OF COUNTY PROPERTY -- GENERAL PROCEDURE -- SALE OF PROPERTY ACQUIRED THROUGH TAX DEED -- PROCEDURE AFTER ATTEMPTED AUCTION -- EXCHANGE OF COUNTY PROPERTY -- SALE OF CERTAIN ODD-LOT PROPERTY -- SALE, EXCHANGE OR DONATION OF PROPERTY TO OTHER UNITS OF GOVERNMENT. (1) A board of county commissioners shall have the power and authority to sell or offer for sale at public auction any real or personal property belonging to the county not necessary for its use. However, personal property not exceeding two hundred fifty dollars (\$250) in value may be sold at private sale without notice or public auction. Prior to offering the property for sale, the board of county commissioners shall advertise notice of the auction in a newspaper, as defined in section 60-106, Idaho Code, either published in the county or having a general circulation in the county, not less than ten (10) calendar days prior to the auction. If the property to be sold is real property, the notice to be published shall contain the legal description as well as the street address of the property. If the property is outside the corporate limits of a city and does not have a street address, then the description shall also contain the distance and direction of the location of the real property from the closest city.

If the property to be sold is acquired by tax deed, the notice required to be published shall include, next to the description of the property, the name of the taxpayer as it appears in the delinquent tax certificate upon which the tax deed was issued. The property shall be sold to the highest bidder. However, the board of county commissioners shall set the minimum bid for the tax deeded property to include all property taxes owing, interest and costs but they may reserve the right to reject any and all bids and shall have discretionary authority to reject or accept any bid which may be made for an amount less than the total amount of all delinquent taxes, late charges, interest and costs, including other costs associated with the property, advertising, and sale, which may have accrued against any property so offered for sale, including the amount specified in the tax deed to the county. Such action by the board in setting the minimum bid shall be duly noted in their minutes. Failure to do so shall not invalidate a sale. For tax deeded property, the board of county commissioners shall conduct an auction no later than fourteen (14) months from the issuance of the tax deed.

(2) (a) Proceeds from the sale of county property not acquired by tax deed shall be paid into the county treasury for the general use of the county.

(b) If the property to be sold has been acquired by tax deed, pursuant to the provisions of chapter 10, title 63, Idaho Code, the proceeds from the sale, after payment of all delinquent taxes, late charges, interest and costs, including the cost for maintaining the property, shall be apportioned by the board of county commissioners to parties in interest as defined in section 63-201, Idaho Code, and then to the owner(s) of

record of such property at the time the tax deed was issued on the property.

(c) Once such tax deeded property has been sold, the board of county commissioners shall within thirty (30) days notify all parties in interest of such sale and the amount of the excess proceeds. Such parties in interest shall respond to the board of county commissioners, within sixty (60) days of receiving such notice, making claim on the proceeds. No responses postmarked or received after the sixtieth day shall be accepted. Within sixty (60) days of the date a claim on the proceeds is due, the board of county commissioners shall then make payment to parties in interest in priority of the liens pursuant to law, within sixty (60) days or shall transfer the funds to the state treasurer as set forth in paragraph (d) of this subsection. All funds available after payment to parties in interest shall be returned to the owner(s) of record of the property at the time the tax deed was issued. All costs associated with the compliance of this section shall be deducted from any amounts refunded to the parties in interest or owner(s) of record or transferred to the state treasurer.

(d) With the consent of the state treasurer, the board of county commissioners may transfer funds to be paid to parties in interest or the owner(s) of records pursuant to paragraph (c) of this subsection to the state treasurer. Upon transfer, the board of county commissioners shall immediately notify by first-class mail all parties that submitted a claim on the proceeds and the owner(s) of record of the transfer. The board of county commissioners shall provide such information to the state treasurer concerning the claims and the proceeds as the state treasurer shall reasonably request. The state treasurer shall keep and distribute the proceeds in accordance with chapter 5, title 14, Idaho Code.

(3) Any property sold may be carried on a recorded contract with the county for a term not to exceed ten (10) years and at an interest rate not to exceed the rate of interest specified in section 28-22-104(1), Idaho Code. The board of county commissioners shall have the authority to cancel any contract if the purchaser fails to comply with any of the terms of the contract and the county shall retain all payments made on the contract. The title to all property sold on contract shall be retained in the name of the county until full payment has been made by the purchaser. However, the purchaser shall be responsible for payment of all property taxes during the period of the contract.

(4) Any sale of property by the county shall vest in the purchaser all of the right, title and interest of the county in the property, including all delinquent taxes which have become a lien on the property since the date of issue of the tax deed, if any.

(5) In addition to the purchase price, a purchaser of county property, including property acquired by tax deed, shall pay all fees required by law for the transfer of property. No deed for any real estate purchased pursuant to the provisions of this section shall be delivered to a purchaser until such deed has been recorded in the county making the sale.

(6) Should the county be unable to sell at a public auction any real or personal property belonging to the county, including property acquired by tax deed, it may sell the property without further notice by public or private sale upon such terms and conditions as the county deems necessary. Distribution of the proceeds of sale shall be as set forth in subsection (2) of this section.

(7) The board of county commissioners may at its discretion, when in the county's best interest, exchange and do all things necessary to exchange any of the real property now or hereafter held and owned by the county for real property of equal value, public or private, to consolidate county real prop-

erty or aid the county in the control and management or use of county real property.

(8) The board of county commissioners may, by resolution, declare certain parcels of real property as odd-lot property, all or portions of which are not needed for public purposes and are excess to the needs of the county. For purposes of this subsection, odd-lot property is defined as that property that has an irregular shape or is a remnant and has value primarily to an adjoining property owner. Odd-lot property may be sold to an adjacent property owner for fair market value that is estimated by a land appraiser licensed to appraise property in the state of Idaho. If, after thirty (30) days' written notice, an adjoining property owner or owners do not desire to purchase the odd-lot property, the board of county commissioners may sell the property to any other interested party for not less than the appraised value. When a sale of odd-lot property is agreed to, a public advertisement of the pending sale shall be published in one (1) edition of the newspaper as defined in subsection (1) of this section, and the public shall have fifteen (15) days to object to the sale in writing. The board of county commissioners shall make the final determination regarding the sale of odd-lot property in an open meeting.

(9) In addition to any other powers granted by law, the board of county commissioners may at their discretion, grant to or exchange with the federal government, the state of Idaho, any political subdivision or taxing district of the state of Idaho or any local historical society which is incorporated as an Idaho nonprofit corporation which operates primarily in the county or maintains a museum in the county, with or without compensation, any real or personal property or any interest in such property owned by the county or acquired by tax deed, after adoption of a resolution by the board of county commissioners that the grant or exchange of property is in the public interest. Notice of such grant or exchange shall be as provided in subsection (1) of this section and the decision may be made at any regularly or specially scheduled meeting of the board of county commissioners. The execution and delivery by the county of the deed conveying an interest in the property shall operate to discharge and cancel all levies, liens and taxes made or created for the benefit of the state, county or any other political subdivision or taxing district and to cancel all titles or claims of title including claims of redemption to such real property asserted or existing at the time of such conveyance. However, if the property conveyed is subject to a lien for one (1) or more unsatisfied special assessments, the lien shall continue until all special assessments have been paid in full. At no time shall a lien for a special assessment be extinguished prior to such special assessment having been paid in full. Any property conveyed to any local historical society by the county shall revert to the county when the property is no longer utilized for the purposes for which it was conveyed.

(10) When the county has title to mineral rights severed from the property to which they attach, and the mineral rights have value of less than twenty-five dollars (\$25.00) per acre, the board of county commissioners may act to return the mineral rights to the land from which they were severed in the following manner: the proposed action must appear on the agenda of a regular meeting of the board of county commissioners; and the motion to make the return must be adopted unanimously by the board voting in open meeting.

~~(11) If there are excess funds and the owner(s) of record of the property at the time the tax deed was issued on the property cannot be located, then the county treasurer shall put all remaining excess funds in an interest-bearing trust for three (3) years. The county may charge for the actual costs for performing the search, and after three (3) years, any remaining funds shall be transferred to the county indigent fund. The levy set to fund this portion of the indigent budget shall be calculated based on the budget subject to the limitation in section 63-802, Idaho Code, less the money received from the interest-bearing trust.~~

Approved March 28, 2016

CHAPTER 212
(S.B. No. 1351)

AN ACT

RELATING TO PRISONERS; AMENDING SECTION 20-617, IDAHO CODE, TO PROVIDE THAT CERTAIN CONFINED PERSONS MAY BE REQUIRED TO PERFORM LABOR ON COMMUNITY SERVICE PROJECTS.

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

SECTION 1. That Section 20-617, Idaho Code, be, and the same is hereby amended to read as follows:

20-617. LABOR OF PRISONERS ON PUBLIC WORKS. Persons confined in the county jail under a judgment of conviction, suspended sentence or withheld judgment rendered in any criminal case, either under a judgment of imprisonment or a judgment for the payment of a fine and costs, may be required to perform labor on federal, state or other governmental projects or community service projects.

Approved March 28, 2016

CHAPTER 213
(S.B. No. 1359)

AN ACT

RELATING TO FARM IMPLEMENTS AND EQUIPMENT; AMENDING SECTION 28-23-101, IDAHO CODE, TO REVISE PROVISIONS ASSOCIATED WITH THE REPURCHASE OF CERTAIN EQUIPMENT FROM RETAILERS BY WHOLESALERS, MANUFACTURERS AND DISTRIBUTORS AND TO REVISE PROVISIONS REGARDING SUMS TO BE PAID FOR REPURCHASE; AMENDING SECTION 28-23-102, IDAHO CODE, TO REVISE VERBIAGE AND TO PROVIDE FOR THE PURCHASE PRICE OF REPAIR TOOLS IN COMPLETE AND USABLE CONDITION.

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

SECTION 1. That Section 28-23-101, Idaho Code, be, and the same is hereby amended to read as follows:

28-23-101. REPURCHASE OF FARM MACHINERY, EQUIPMENT, CONSTRUCTION EQUIPMENT, IMPLEMENTS, ATTACHMENTS, ACCESSORIES AND PARTS UPON TERMINATION OF CONTRACT AND OBLIGATION TO REPURCHASE. Whenever any person, firm, or corporation engaged in the business of selling and retailing farm implements or equipment, or repair parts for farm implements or equipment, enters into a written or parol contract, sales agreement or security agreement whereby

the retailer agrees with any wholesaler, manufacturer or distributor of farm implements or equipment, machinery, attachments, accessories or repair parts to maintain a stock of parts which may include, but is not limited to, complete or whole machines, attachments, or demonstration and rental equipment and thereafter the written or parol contract, sales agreement or security agreement is terminated, canceled or discontinued, then the wholesaler, manufacturer or distributor shall pay to the retailer or credit to the retailer's account, if the retailer has outstanding any sums owing the wholesaler, manufacturer or distributor, unless the retailer should desire and has a contractual right to keep such merchandise, a sum equal to (a) one hundred percent (100%) of the net cost of all unused, unsold and undamaged complete farm implements or equipment, machinery or repair parts and stock of parts, attachments in new condition which that have been purchased by the retailer from the wholesaler, manufacturer or distributor within the thirty-six (36) months immediately preceding notification by either party of intent to cancel or discontinue the contract, including the transportation charges to the retailer. The payment or credit for plus (b) one hundred percent (100%) of the net cost of all demonstration or rental equipment that has not been retailed to an end user is a sum equal to the depreciated value of the equipment. The less a reasonable downward adjustment to reflect depreciation relating to such demonstration or rental activity. All such payments shall also include transportation charges paid to deliver such farm implements or equipment, machinery or attachments from the wholesaler, manufacturer or distributor to the retailer. In addition, the wholesaler, manufacturer or distributor shall pay to the retailer a reasonable reimbursement for services performed in connection with the assembly and predelivery inspections of the farm implements or equipment and machinery and attachments subject to repurchase herein. The supplier assumes ownership of farm implements or equipment, machinery or repair parts and stock attachments FOB the dealer location.

A supplier If a wholesaler, manufacturer or distributor is required to purchase farm implements or equipment and machinery and attachments in accordance with this section, such wholesaler, manufacturer or distributor must repurchase any specific data processing hardware, software, telecommunications equipment and computer communications hardware specifically required by the supplier wholesaler, manufacturer or distributor to meet the supplier's its minimum requirements and purchased by the dealer retailer in the prior five (5) years and held by the dealer retailer on the date of termination. The purchase price to be paid by the wholesaler, manufacturer or distributor to the retailer for such items is the original net cost to the dealer retailer, less twenty percent (20%) per year.

SECTION 2. That Section 28-23-102, Idaho Code, be, and the same is hereby amended to read as follows:

28-23-102. REPURCHASE OF REPAIR PARTS. Whenever any person, firm, or corporation engaged in the business of selling and retailing farm implements or equipment, or repair parts for farm implements or equipment, enters into a written or parol contract, sales agreement or security agreement whereby the retailer agrees with any wholesaler, manufacturer or distributor of farm implements or equipment, machinery, attachments, accessories or repair parts to maintain a stock of parts or complete or whole machines, or attachments, manuals and repair manuals and thereafter the written or parol contract, sales agreement or security agreement is terminated, canceled or discontinued, then the wholesaler, manufacturer or distributor shall pay to the retailer or credit to the retailer's account, if the retailer has outstanding any sums owing the wholesaler, manufacturer or distributor, unless the retailer should desire and has a contractual right to keep such merchandise, a sum equal to one hundred percent (100%) of the current net

prices, including the transportation charges from the retailer to the wholesaler, manufacturer or distributor which have been paid by the retailer, or invoiced to a retailer's account by the wholesaler, manufacturer or distributor, ~~on~~ for manuals and repair manuals, repair parts, including superseded or previously included parts listed in current price lists or catalogs or electronic catalogs in use, or previously used within thirty-six (36) months prior to the latest parts price list issue date by the wholesaler, manufacturer or distributor on the date of cancellation or discontinuance of the contract, which parts had previously been purchased by the retailer from the wholesaler, manufacturer or distributor and are held by the retailer on the date of the cancellation or discontinuance of the contract or thereafter received by the retailer from the wholesaler, manufacturer or distributor.

The wholesaler, manufacturer or distributor shall also pay the retailer or credit to his account a sum equal to five percent (5%) of the current net price of all parts returned for the handling, packing and loading of the parts back to the wholesaler, manufacturer or distributor unless the wholesaler, manufacturer or distributor elects to perform inventorying, packing and loading of the parts themselves.

Upon the payment or allowance of credit to the retailer's account of the sum required by this section and section 28-23-101, Idaho Code, the title to the farm implements, equipment, machinery, attachments, accessories or repair parts shall pass to the manufacturer, wholesaler or distributor making the payment or allowing the credit and the manufacturer, wholesaler or distributor shall be entitled to the possession of the farm implements, equipment, machinery, attachments, accessories or repair parts. Title to farm implements, equipment, attachments, accessories and repair parts is transferred to the supplier FOB the dealer location. The provisions of this section shall apply to any part return adjustment agreement made between a dealer and a supplier. All payments or allowances of credit due retailers under this section shall be paid or credited by the manufacturer, wholesaler, or distributor within ninety (90) days from the termination date of the dealer agreement. After the ninety (90) days all sums of credits due shall include interest at the rate specified in section 28-22-104(1), Idaho Code. However, this section and section 28-23-101, Idaho Code, shall not in any way affect any security interest which the wholesaler, manufacturer or distributor may have in the inventory of the retailer.

A supplier shall repurchase at one hundred percent (100%) of net dealer cost, manuals and repair manuals purchased in the previous six (6) years and at fifty percent (50%) for manuals and repair manuals purchased in the previous seven (7) through twelve (12) years as required by the supplier and held by the dealer on the date of termination. Manuals and repair manuals must be unique to the supplier's product line and must be in complete and in readable condition.

A supplier must repurchase, and the dealer must sell to the supplier, specialized repair tools. As applied in this section, "specialized repair tools" is defined as those tools required by the supplier and unique to the diagnosis or repair of the supplier's products. For specialized repair tools that are in new, unused condition and are applicable to the supplier's current products, the purchase price is one hundred percent (100%) of the original net cost to the dealer. For all other specialized repair tools, in complete and ~~resalable~~ usable condition, the purchase price is the original net cost to the dealer less twenty percent (20%) per year depreciation, but not less than fifty percent (50%) of the original purchase price.

A supplier must repurchase, and the dealer must sell to the supplier, current signage. As used in this section, "current signage" means the principal outdoor signage required by the supplier that displays the supplier's current logo or similar exclusive identifier, and that identifies the dealer as representing either the supplier or the supplier's products, or both. The purchase price shall be the original net cost to the dealer less twenty percent (20%) per year, but may in no case be less than fifty percent (50%) of the original cost to the dealer.

Approved March 28, 2016

CHAPTER 214
(S.B. No. 1361)

AN ACT

RELATING TO PUBLIC DEFENSE; AMENDING SECTION 19-862, IDAHO CODE, TO PROVIDE THAT MONEY TO ADMINISTER PUBLIC DEFENSE MAY BE APPROPRIATED FROM CERTAIN FUNDS; AMENDING SECTION 31-3403, IDAHO CODE, TO REVISE A DEFINITION; AND AMENDING SECTION 63-805, IDAHO CODE, TO PROVIDE FOR PUBLIC DEFENDER SERVICES.

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

SECTION 1. That Section 19-862, Idaho Code, be, and the same is hereby amended to read as follows:

19-862. APPROPRIATION FOR PUBLIC DEFENDER -- PRIVATE CONTRIBUTIONS. (1) The board of county commissioners of each county shall annually appropriate enough money to administer the program of representation that it has elected under section 19-859, Idaho Code, and may appropriate such money from the justice fund as provided in section 31-4602, Idaho Code, the current expense fund as provided in section 63-805, Idaho Code, and as a means of providing nonmedical indigent assistance in accordance with chapter 34, title 31, Idaho Code.

(2) If the board of county commissioners of a county elects to establish and maintain an office of public defender or a joint office of public defender, the county may accept private contributions toward the support of the office.

SECTION 2. That Section 31-3403, Idaho Code, be, and the same is hereby amended to read as follows:

31-3403. DEFINITIONS. As used in this chapter:

(1) "Adult household member" means any individual eighteen (18) years of age and over who resides in the household.

(2) "Anticipated future income" means a reasonable expectation of income to the household based on an analysis of past income, future income, current income, experience, skills, education, inheritance and possible assets from any source.

(3) "Applicant" means the individual and all others in the household who are requesting nonmedical assistance and who submit a county application.

(4) "Assets" means property rights including, but not limited to, personal, real, tangible and intangible property.

(5) "Authorized representative" means the applicant's guardian or appointed attorney-in-fact.

(6) "Board" means a board of county commissioners.

(7) "Clerk" means the clerk of a board of county commissioners or his designee.

(8) "Emergency" means any circumstance demanding immediate action.

(9) "Household" means a collective body of persons consisting of spouses or parents and their children who reside in the same residence; or all other persons who by choice or necessity are mutually dependent upon each other for basic necessities and who reside in the same residence.

(10) "Indigent" means any applicant who does not have resources available from whatever source which shall be sufficient to enable the applicant to provide nonmedical assistance or a portion thereof.

(11) "Information release" means the document authorizing release of confidential information.

(12) "Investigation" means a detailed examination of the application and information required from the applicant and others to verify eligibility.

(13) "Nonmedical assistance" means reasonable costs for assistance, which includes food, and shelter and provision of public defender services, and other such necessary services determined by the board by resolution.

(14) "Obligated county for payment" means the county wherein residency has been established.

(15) "Recipient" means the individual(s) determined eligible for county assistance.

(16) "Repayment" means the authority of the board of county commissioners to require indigent person(s) to repay the county for assistance when investigation of their application determines their ability to do so.

(17) "Resident" means a person with a home, house, place of abode, place of habitation, dwelling or place where one actually lived for a consecutive period of thirty (30) days or more prior to the date of application.

(18) "Resource" means assets, whether tangible or intangible, real or personal, liquid or nonliquid, including, but not limited to, gifts, bequests, grants, all forms of public or private assistance, crime victims compensation, worker's compensation, veteran's benefits, medicaid, medicare and any other property from any source for which an applicant and/or an obligated person may be eligible or in which he or she may have an interest. For purposes of determining approval for nonmedical indigency only, resources shall not include the value of the homestead of the applicant or obligated person's residence, a burial plot, exemptions for personal property allowed in section 11-605(1) through (3), Idaho Code, and additional exemptions allowed by county resolution.

SECTION 3. That Section 63-805, Idaho Code, be, and the same is hereby amended to read as follows:

63-805. ANNUAL LEVIES. (1) The county commissioners of each county in this state may levy annually upon all taxable property of said county, a property tax for general county purposes, including the provision of public defender services, to be collected and paid into the county treasury and apportioned to the county current expense fund which levy shall not exceed twenty-six hundredths percent (.26%) of market value for assessment purposes of such property, or a levy sufficient to raise two hundred fifty thousand dollars (\$250,000), whichever is greater. If a county establishes the justice fund, as provided in section 31-4602, Idaho Code, the maximum current expense levy shall be reduced to twenty hundredths percent (.20%) of market value for assessment purposes, or a levy sufficient to raise two hundred fifty thousand dollars (\$250,000), whichever is greater.

(2) The county commissioners of each county in this state may levy upon all taxable property of said county, a property tax for the purposes set forth in the statutes authorizing a county justice fund, to be collected and paid into the county treasury and apportioned to the county justice fund,

if one has been established. Said levy shall not exceed twenty hundredths percent (.20%) of market value for assessment purposes of such property, or a levy sufficient to raise two hundred fifty thousand dollars (\$250,000), whichever is greater.

The county commissioners shall have the right to make a "general reserve appropriation," said appropriation not to exceed five percent (5%) of the county justice fund budget as finally adopted. The total levy, however, for the county justice fund, including the "general reserve appropriation," shall be within the limitations imposed by chapter 8, title 63, Idaho Code, or by any statutes of the state of Idaho in force and effect.

(3) Annually, before the second Monday in September, the board of trustees of any school district within the county having determined the number, if any, of pupils in average daily attendance above the number included in the last annual report thereof, and the amount of money required to provide the educational support programs and transportation support programs for such additional pupils in average daily attendance, as defined in chapter 10, title 33, Idaho Code, the county commissioners shall determine the total of such new requirements within the county and upon the taxable property situate within the district requesting the same, and the county commissioners shall levy a tax sufficient to provide such amount, provided in no case shall the levy be more than six-hundredths percent (.06%) of the taxable value of the property to be collected and paid to the requesting district.

(4) (a) The county commissioners of each county in this state may levy annually upon all taxable property of its county, a property tax for the acquisition, maintenance and operation of public parks or public recreational facilities, to be collected and paid into the county treasury and apportioned to a fund to be designated as the "parks and recreation fund," which is hereby created, and such county commissioners may appropriate otherwise unappropriated funds for such purposes. No levy made under this subsection shall exceed one-hundredth percent (.01%) of the market value for assessment purposes on all taxable property within the district.

(b) Any funds unexpended from the "parks and recreation fund," or any funds unexpended from the current year's certified parks and recreation budget may be retained in, or deposited to, the "parks and recreation fund" for the purpose of future land acquisition, park expansion or improvement, or the acquisition of operating equipment. The maximum accumulation of funds allowable shall not exceed twice the amount of money provided by the levy authorized in paragraph (a) of this subsection.

(5) Upon the same property and for the same year the county commissioners must also levy such other property taxes as may be necessary for the payment of the interest on county bonds or to provide a sinking fund for the redemption of county bonds or such other authorized taxes as may be necessary for any other or special purposes, to be collected and paid into the county treasury and apportioned as provided by the laws of this state.

Approved March 28, 2016

CHAPTER 215
(S.B. No. 1382)

AN ACT

RELATING TO NURSES; AMENDING SECTION 54-1402, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-1402, Idaho Code, be, and the same is hereby amended to read as follows:

54-1402. DEFINITIONS. As used in this act chapter:

(1) "Advanced practice registered nurse" means a registered nurse licensed in this state who has gained additional specialized knowledge, skills and experience through a program of study recognized or defined by the board. An advanced practice registered nurse is authorized to perform advanced nursing practice, which may include the prescribing, administering and dispensing of therapeutic pharmacologic agents, as defined by board rules. An advanced practice registered nurse shall perform only those acts as provided by the board and for which the individual is educationally prepared. Advanced practice registered nurses shall include the following four (4) roles: certified nurse-midwife; clinical nurse specialist; certified nurse practitioner; and certified registered nurse anesthetist as defined in board rule. An advanced practice registered nurse collaborates with other health professionals in providing health care.

(2) "Board" means the board of nursing.

(3) "Licensed practical nurse" means a person licensed by the board who practices nursing by:

(a) Functioning at the direction of a licensed registered nurse, licensed advanced practice registered nurse, licensed physician, or licensed dentist in a role falling within the nurse's scope of practice as defined by the board;

(b) Contributing to the assessment of the health status of individuals and groups of individuals;

(c) Participating in the development and modification of the strategy of care;

(d) Implementing the appropriate aspects of the strategy of care as defined by the board, including administering medications and treatments as prescribed by those health care providers authorized to prescribe medication;

(e) Maintaining safe and effective nursing care rendered directly or indirectly;

(f) Participating in the evaluation of responses to interventions; and

(g) Delegating nursing interventions that may be performed by others and that do not conflict with this act chapter.

(4) "Licensed registered nurse" means a person licensed by the board who practices nursing by:

(a) Assessing the health status of individuals and groups of individuals;

(b) Identifying health care problems that are amenable to nursing intervention;

(c) Establishing goals to meet identified health care needs;

(d) Planning a strategy of care;

(e) Prescribing nursing interventions to implement the strategy of care;

(f) Implementing the strategy of care, including administering medications and treatments as prescribed by those health care providers authorized to prescribe medication;

(g) Authorizing nursing interventions that may be performed by others and that do not conflict with this act chapter;

(h) Maintaining safe and effective nursing care rendered directly or indirectly;

(i) Evaluating responses to interventions;

(j) Teaching the theory and practice of nursing;

(k) Managing the practice of nursing; and

(l) Collaborating with other health professionals in the management of health care.

(5) "Nursing education program" means a course of instruction offered and conducted to prepare persons for the practice of nursing, or to increase the knowledge and skills of the practicing nurse.

(6) "Practice of nursing" means ~~assisting individuals or groups of individuals to promote, maintain or restore optimal health throughout the life process by assessing and evaluating their health status, planning and implementing a strategy of care to accomplish defined goals, and evaluating responses to care and treatment~~ the performance by licensed practical nurses, registered nurses and advanced practice registered nurses of acts and services that require formal nursing education and specialized knowledge, judgment and skill, which acts and services assist individuals, groups, communities and populations in order to promote, maintain or restore optimal health and well-being throughout the life process. Nursing practice encompasses a broad continuum of services delivered in health care and non-health care environments for remuneration or as volunteer service. Nursing practice may be clinical as well as nonclinical in a variety of areas including, but not limited to, education, administration, research and public service. Nursing practice occurs at the physical location of the recipient.

Approved March 28, 2016

CHAPTER 216
(S.B. No. 1395)

AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 2017; 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, 2016, through June 30, 2017:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. EXTENDED EMPLOYMENT SERVICES:					
FROM:					
General					
Fund	\$425,200	\$23,700		\$3,758,300	\$4,207,200
II. VOCATIONAL REHABILITATION:					
FROM:					
General					
Fund	\$1,858,100	\$256,100	\$14,400	\$1,784,500	\$3,913,100
Rehabilitation Revenue and Refunds					
Fund				1,081,500	1,081,500
Miscellaneous Revenue					
Fund	69,200	1,700		894,500	965,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant					
Fund	<u>8,212,000</u>	<u>1,414,000</u>	<u>53,200</u>	<u>7,729,700</u>	<u>17,408,900</u>
TOTAL	\$10,139,300	\$1,671,800	\$67,600	\$11,490,200	\$23,368,900

III. COUNCIL FOR THE DEAF AND HARD OF HEARING:

FROM:

General

Fund	\$178,100	\$37,700			\$215,800
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GRAND TOTAL	\$10,742,600	\$1,733,200	\$67,600	\$15,248,500	\$27,791,900
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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, 2016, through June 30, 2017, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 28, 2016

CHAPTER 217
(S.B. No. 1396)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE LIEUTENANT GOVERNOR FOR FISCAL YEAR 2017; 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, 2016, through June 30, 2017:

FOR:

Personnel Costs	\$157,800
Operating Expenditures	<u>12,200</u>
TOTAL	\$170,000

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, 2016, through June 30, 2017, 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 2017, 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, 2016, through June 30, 2017. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

Approved March 28, 2016

CHAPTER 218
(S.B. No. 1397)

AN ACT

APPROPRIATING MONEYS TO THE STATE CONTROLLER FOR FISCAL YEAR 2017; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING FOR THE RECOVERY OF STATE CONTROLLER SERVICE COSTS TO THE GENERAL FUND; PROVIDING CERTAIN DEDICATED FUND REAPPROPRIATION AUTHORITY; AND PROVIDING CERTAIN GENERAL FUND REAPPROPRIATION AUTHORITY.

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

SECTION 1. 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, 2016, through June 30, 2017:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. ADMINISTRATION:				
FROM:				
General				
Fund	\$593,100	\$70,400	\$6,700	\$670,200
II. STATEWIDE ACCOUNTING:				
FROM:				
General				
Fund	\$1,729,500	\$1,858,400	\$26,200	\$3,614,100
Miscellaneous Revenue				
Fund	<u>0</u>	<u>5,000</u>	<u>0</u>	<u>5,000</u>
TOTAL	\$1,729,500	\$1,863,400	\$26,200	\$3,619,100
III. STATEWIDE PAYROLL:				
FROM:				
General				
Fund	\$1,500,200	\$1,730,500	\$9,400	\$3,240,100
Miscellaneous Revenue				
Fund	<u>0</u>	<u>5,000</u>	<u>0</u>	<u>5,000</u>
TOTAL	\$1,500,200	\$1,735,500	\$9,400	\$3,245,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
IV. COMPUTER CENTER:				
FROM:				
Data Processing Services				
Fund	\$4,908,800	\$2,851,900	\$27,600	\$7,788,300
GRAND TOTAL	\$8,731,600	\$6,521,200	\$69,900	\$15,322,700

SECTION 2. 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, 2016, through June 30, 2017, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. 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, 2017, 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 4. DEDICATED FUND REAPPROPRIATION AUTHORITY. There is hereby reapportioned to the State Controller any unexpended and unencumbered balances appropriated or reapportioned to the State Controller for the Computer Service Center Program for fiscal year 2016, to be used for nonrecurring expenditures in that program for the period July 1, 2016, through June 30, 2017.

SECTION 5. GENERAL FUND REAPPROPRIATION AUTHORITY. There is hereby reapportioned to the State Controller any unexpended and unencumbered General Fund balances appropriated or reapportioned to the State Controller for the Statewide Payroll Program for fiscal year 2016, for federal Internal Revenue Service reporting requirements due to the Affordable Care Act, to be used for the same purpose for the period of July 1, 2016, through June 30, 2017.

Approved March 28, 2016

CHAPTER 219
(S.B. No. 1398)

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 2017; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING FOR THE TRANSFER OF UNEXPENDED AND UNENCUMBERED MONEYS TO THE OPPORTUNITY SCHOLARSHIP PROGRAM ACCOUNT AT THE END OF FISCAL YEAR 2016; PROVIDING LEGISLATIVE INTENT REGARDING THE LEVEL OF SERVICES THAT THE GEOLOGICAL SURVEY PROGRAM WILL PROVIDE IN EASTERN IDAHO; AND DECLARING AN EMERGENCY.

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, 2016, through June 30, 2017:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. FOREST UTILIZATION RESEARCH:					
FROM:					
General					
Fund	\$1,106,100	\$159,300	\$3,000		\$1,268,400
II. GEOLOGICAL SURVEY:					
FROM:					
General					
Fund	\$1,035,400	\$33,000	\$54,900		\$1,123,300
III. SCHOLARSHIPS AND GRANTS:					
FROM:					
General					
Fund	\$65,900			\$11,663,300	\$11,729,200
Federal Grant					
Fund	<u>18,800</u>	<u>\$1,000</u>		<u>1,704,600</u>	<u>1,724,400</u>
TOTAL	\$84,700	\$1,000		\$13,367,900	\$13,453,600
IV. MUSEUM OF NATURAL HISTORY:					
FROM:					
General					
Fund	\$506,500	\$13,800	\$12,400		\$532,700
V. SMALL BUSINESS DEVELOPMENT CENTERS:					
FROM:					
General					
Fund	\$602,100	\$8,000			\$610,100
VI. TECHHELP:					
FROM:					
General					
Fund	\$166,400				\$166,400
GRAND TOTAL	\$3,501,200	\$215,100	\$70,300	\$13,367,900	\$17,154,500

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, 2016, through June 30, 2017, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Forest Utilization Research	11.68
Geological Survey	12.28
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, 2015, through June 30, 2016, that are unexpended and unencumbered as of June 30, 2016, are hereby appropriated and the State Controller shall transfer the available balance at the end of fiscal year 2016 to the Opportunity Scholarship Program Account created in Section 33-4303, Idaho Code.

SECTION 4. LEGISLATIVE INTENT. Due to staffing changes within the University of Idaho's Geological Survey Program, it is the intent of the Legislature that during the time period July 1, 2016, through June 30, 2017, the Geological Survey Program is to provide services in eastern Idaho that are equivalent to or better than the services currently being provided in that region. The State Board of Education shall report to the Joint Finance-Appropriations Committee, prior to the committee's 2016 fall interim meeting, on the services provided by that program.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Section 3 of this act shall be in full force and effect on and after passage and approval.

Approved March 28, 2016

CHAPTER 220
(S.B. No. 1399)

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 2017; 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, 2016, through June 30, 2017:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. WASHINGTON-IDAHO VETERINARY EDUCATION:					
FROM:					
General					
Fund	\$591,100	\$1,356,000	\$41,300		\$1,988,400
Restricted					
Fund	<u>0</u>	<u>0</u>	<u>0</u>	<u>\$100,000</u>	<u>100,000</u>
TOTAL	\$591,100	\$1,356,000	\$41,300	\$100,000	\$2,088,400
II. WWAMI MEDICAL EDUCATION:					
FROM:					
General					
Fund	\$1,104,400	\$187,800		\$3,583,900	\$4,876,100
III. IDAHO DENTAL EDUCATION PROGRAM:					
FROM:					
General					
Fund	\$251,200		\$10,200	\$1,349,200	\$1,610,600
Unrestricted					
Fund	<u>185,900</u>	<u>\$25,800</u>	<u>5,500</u>	<u>0</u>	<u>217,200</u>
TOTAL	\$437,100	\$25,800	\$15,700	\$1,349,200	\$1,827,800
IV. UNIVERSITY OF UTAH MEDICAL EDUCATION:					
FROM:					
General					
Fund				\$1,466,200	\$1,466,200
V. FAMILY MEDICINE RESIDENCIES:					
FROM:					
General					
Fund	\$756,400	\$321,600	\$6,900	\$2,090,000	\$3,174,900
VI. BOISE INTERNAL MEDICINE:					
FROM:					
General					
Fund				\$240,000	\$240,000
VII. PSYCHIATRY EDUCATION:					
FROM:					
General					
Fund				\$157,800	\$157,800
GRAND TOTAL	\$2,889,000	\$1,891,200	\$63,900	\$8,987,100	\$13,831,200

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-four and eight-tenths (24.8) full-time equivalent positions at any point during the period July 1, 2016, through June 30, 2017, 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 2017, 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, 2016, through June 30, 2017. 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 and the Board of Regents of the University of Idaho for Dental Education Programs any unexpended and unencumbered balances of moneys categorized as dedicated funds as appropriated or reappropriated for fiscal year 2016, to be used for nonrecurring expenditures, for the period July 1, 2016, through June 30, 2017.

Approved March 28, 2016

CHAPTER 221
(S.B. No. 1400)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF LABOR FOR FISCAL YEAR 2017; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING LEGISLATIVE INTENT FOR LOCAL DEPARTMENT OF LABOR OFFICES.

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

SECTION 1. There is hereby appropriated to the Department of Labor, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2016, through June 30, 2017:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. UNEMPLOYMENT INSURANCE ADMINISTRATION:					
FROM:					
Unemployment Penalty and Interest					
Fund	\$1,936,600	\$7,538,200			\$9,474,800
Miscellaneous Revenue					
Fund	2,112,900	4,223,300	\$31,500		6,367,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant					
Fund	<u>20,012,700</u>	<u>1,863,100</u>	<u>487,000</u>		<u>22,362,800</u>
TOTAL	\$24,062,200	\$13,624,600	\$518,500		\$38,205,300
II. EMPLOYMENT SERVICES:					
FROM:					
General					
Fund				\$50,000	\$50,000
Unemployment Penalty and Interest					
Fund	\$1,314,400	\$616,500	\$42,000		1,972,900
Employment Security Special Administration					
Fund	360,100	4,318,600	678,000		5,356,700
Workforce Development Training					
Fund	988,900	379,900		7,684,500	9,053,300
Miscellaneous Revenue					
Fund	372,500	212,300			584,800
Federal Grant					
Fund	<u>24,487,800</u>	<u>8,878,700</u>	<u>0</u>	<u>11,000,000</u>	<u>44,366,500</u>
TOTAL	\$27,523,700	\$14,406,000	\$720,000	\$18,734,500	\$61,384,200
III. WAGE AND HOUR:					
FROM:					
General					
Fund	\$274,800	\$64,800			\$339,600
Unemployment Penalty and Interest					
Fund	176,800	64,800			241,600
Miscellaneous Revenue					
Fund	<u>0</u>	<u>10,600</u>			<u>10,600</u>
TOTAL	\$451,600	\$140,200			\$591,800
IV. CAREER INFORMATION SERVICES:					
FROM:					
Unemployment Penalty and Interest					
Fund	\$289,100	\$207,200			\$496,300
Employment Security Special Administration					
Fund	81,200	46,000			127,200
Miscellaneous Revenue					
Fund	<u>107,600</u>	<u>72,900</u>			<u>180,500</u>
TOTAL	\$477,900	\$326,100			\$804,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
V. HUMAN RIGHTS COMMISSION:					
FROM:					
Unemployment Penalty and Interest					
Fund		\$187,400			\$187,400
Employment Security Special Administration					
Fund	\$740,900				740,900
Miscellaneous Revenue					
Fund		700			700
Federal Grant					
Fund	<u>0</u>	<u>264,300</u>			<u>264,300</u>
TOTAL	\$740,900	\$452,400			\$1,193,300
VI. SERVE IDAHO:					
FROM:					
Unemployment Penalty and Interest					
Fund	\$42,500	\$36,700			\$79,200
Miscellaneous Revenue					
Fund		56,400			56,400
Federal Grant					
Fund	<u>206,700</u>	<u>248,300</u>		<u>\$2,050,000</u>	<u>2,505,000</u>
TOTAL	\$249,200	\$341,400		\$2,050,000	\$2,640,600
GRAND TOTAL	\$53,505,500	\$29,290,700	\$1,238,500	\$20,784,500	\$104,819,200

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Labor is authorized no more than seven hundred (700) full-time equivalent positions at any point during the period July 1, 2016, through June 30, 2017, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. It is the intent of the Legislature that the Department of Labor shall present a report to the Joint Finance-Appropriations Committee by January 1, 2017, detailing FY 2017 operating costs for all the local Department of Labor offices. The costs shall be reported at the sub-object level and include the number of personnel and the projected annual number of hours worked by position. Additionally, this report shall include revenues for the local offices, by fund source, and include a five-year projection for those fund sources.

Approved March 28, 2016

CHAPTER 222
(S.B. No. 1401)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF PARKS AND RECREATION FOR FISCAL YEAR 2017; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; EX-EMPTING THE DEPARTMENT FROM CERTAIN TRANSFER LIMITATIONS; AND PROVIDING REAPPROPRIATION AUTHORITY FOR CERTAIN BALANCES.

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

SECTION 1. There is hereby appropriated to the Department of Parks and Recreation, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2016, through June 30, 2017:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MANAGEMENT SERVICES:					
FROM:					
General					
Fund	\$380,200	\$260,900			\$641,100
Indirect Cost Recovery					
Fund	243,100	197,200			440,300
Parks and Recreation					
Fund	1,396,800	1,027,500		\$290,000	2,714,300
Recreational Fuels					
Fund	632,300	87,500	\$105,400	2,221,800	3,047,000
Parks and Recreation Registration					
Fund	324,100	145,100		7,401,200	7,870,400
Miscellaneous Revenue					
Fund		15,600			15,600
Federal Grant					
Fund	0	2,600	0	1,997,100	1,999,700
TOTAL	\$2,976,500	\$1,736,400	\$105,400	\$11,910,100	\$16,728,400
II. PARK OPERATIONS:					
FROM:					
General					
Fund	\$2,094,900	\$600,700			\$2,695,600
Indirect Cost Recovery					
Fund		2,400			2,400
Parks and Recreation					
Fund	4,324,200	1,395,800	\$130,000		5,850,000
Recreational Fuels					
Fund	141,800	244,600	810,500		1,196,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Parks and Recreation Registration					
Fund	841,500	801,300	100,000	\$200,000	1,942,800
Miscellaneous Revenue					
Fund	49,400	76,500			125,900
Public Recreation Enterprise					
Fund	795,000	1,239,000	86,000		2,120,000
Parks and Recreation Expendable Trust					
Fund	500,200	405,600			905,800
Federal Grant					
Fund	1,042,000	628,600	0	1,227,500	2,898,100
TOTAL	\$9,789,000	\$5,394,500	\$1,126,500	\$1,427,500	\$17,737,500

III. CAPITAL DEVELOPMENT:**FROM:****Parks and Recreation**

Fund			\$1,460,000		\$1,460,000
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Recreational Fuels

Fund			1,442,000		1,442,000
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Parks and Recreation Registration

Fund			2,100,000		2,100,000
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Public Recreation Enterprise

Fund			163,000		163,000
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TOTAL			\$5,165,000		\$5,165,000
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GRAND TOTAL	\$12,765,500	\$7,130,900	\$6,396,900	\$13,337,600	\$39,630,900
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SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Parks and Recreation is authorized no more than one hundred fifty and eighty-nine hundredths (150.89) full-time equivalent positions at any point during the period July 1, 2016, through June 30, 2017, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EXEMPTIONS FROM PROGRAM TRANSFER LIMITATIONS. Notwithstanding Section 67-3511(1) and (2), Idaho Code, trustee and benefit payments for grants in the Management Services Program may be transferred to capital outlay in the Capital Development Program or to capital outlay in the Park Operations Program to reflect grants awarded to the Department of Parks and Recreation for the period July 1, 2016, through June 30, 2017. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 4. REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the Department of Parks and Recreation any unexpended and unencumbered balances appropriated or reappropriated to the Department of Parks and Recreation for the Capital Development Program for fiscal year 2016, to be used for nonrecurring expenditures in that program for the period July 1, 2016, through June 30, 2017.

Approved March 28, 2016

CHAPTER 223
(S.B. No. 1403)

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 2017; 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, 2016, through June 30, 2017:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. CHILD WELFARE:				
A. CHILD WELFARE:				
FROM:				
Cooperative Welfare (General)				
Fund	\$8,140,700	\$2,208,600		\$10,349,300
Cooperative Welfare (Dedicated)				
Fund	71,500	20,000		91,500
Cooperative Welfare (Federal)				
Fund	<u>20,307,500</u>	<u>5,924,000</u>		<u>26,231,500</u>
TOTAL	\$28,519,700	\$8,152,600		\$36,672,300
B. FOSTER AND ASSISTANCE PAYMENTS:				
FROM:				
Cooperative Welfare (General)				
Fund			\$10,496,700	\$10,496,700
Cooperative Welfare (Dedicated)				
Fund			955,400	955,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Cooperative Welfare (Federal)				
Fund			<u>17,600,400</u>	<u>17,600,400</u>
TOTAL			\$29,052,500	\$29,052,500
DIVISION TOTAL	\$28,519,700	\$8,152,600	\$29,052,500	\$65,724,800
II. SERVICES FOR THE DEVELOPMENTALLY DISABLED:				
A. COMMUNITY DEVELOPMENTAL DISABILITY SERVICES:				
FROM:				
Cooperative Welfare (General)				
Fund	\$7,226,200	\$1,110,900	\$2,192,600	\$10,529,700
Cooperative Welfare (Dedicated)				
Fund	103,100	46,300	1,909,800	2,059,200
Cooperative Welfare (Federal)				
Fund	<u>5,738,300</u>	<u>1,046,700</u>	<u>1,040,700</u>	<u>7,825,700</u>
TOTAL	\$13,067,600	\$2,203,900	\$5,143,100	\$20,414,600
B. SOUTHWEST IDAHO TREATMENT CENTER:				
FROM:				
Cooperative Welfare (General)				
Fund	\$1,968,000	\$491,200	\$77,300	\$2,536,500
Cooperative Welfare (Dedicated)				
Fund	284,900	137,800	10,600	433,300
Cooperative Welfare (Federal)				
Fund	<u>5,818,100</u>	<u>1,934,600</u>	<u>143,200</u>	<u>7,895,900</u>
TOTAL	\$8,071,000	\$2,563,600	\$231,100	\$10,865,700
DIVISION TOTAL	\$21,138,600	\$4,767,500	\$5,374,200	\$31,280,300
III. SERVICE INTEGRATION:				
FROM:				
Cooperative Welfare (General)				
Fund	\$229,600	\$54,700	\$450,000	\$734,300
Cooperative Welfare (Dedicated)				
Fund		19,500	50,000	69,500
Cooperative Welfare (Federal)				
Fund	<u>2,074,800</u>	<u>264,900</u>	<u>2,900,000</u>	<u>5,239,700</u>
TOTAL	\$2,304,400	\$339,100	\$3,400,000	\$6,043,500
GRAND TOTAL	\$51,962,700	\$13,259,200	\$37,826,700	\$103,048,600

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, 2016, through June 30, 2017, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Child Welfare	388.75
Community Developmental Disability Services	176.96
Southwest Idaho Treatment Center	130.75
Service Integration	35.00

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 2017.

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 its custody by the courts for either child protective or 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 interest 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 FAMILIES 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 March 28, 2016

CHAPTER 224
(S.B. No. 1323)

AN ACT

RELATING TO THE IDAHO STATE INDEPENDENT LIVING COUNCIL; AMENDING SECTION 56-1203, IDAHO CODE, TO REVISE A REFERENCE TO A FEDERAL LAW; AMENDING SECTION 56-1204, IDAHO CODE, TO REVISE A REFERENCE TO A FEDERAL LAW; AND AMENDING SECTION 56-1205, IDAHO CODE, TO REVISE LANGUAGE REGARDING FUNDING OF THE STATE INDEPENDENT LIVING COUNCIL.

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

SECTION 1. That Section 56-1203, Idaho Code, be, and the same is hereby amended to read as follows:

56-1203. DIRECTORS OF IDAHO STATE INDEPENDENT LIVING COUNCIL. Directors of the Idaho state independent living council shall be appointed by, and serve at the pleasure of, the governor. The governor shall comply with the provisions of ~~29 U.S.C. section 796d(b) and 34 CFR 364.21~~ the rehabilitation act of 1973, as amended, in making appointments to the council. The council shall select an executive director to carry out the executive functions of the council.

SECTION 2. That Section 56-1204, Idaho Code, be, and the same is hereby amended to read as follows:

56-1204. ADDITIONAL POWERS AND DUTIES. The council shall carry out those powers and duties set forth in ~~29 U.S.C. section 796d(e) and 34 CFR 364.21~~ the rehabilitation act of 1973, as amended. The council shall also:

- (1) Assess the need for services for Idahoans with disabilities and advocate with decision makers;
- (2) Supervise and evaluate such staff as may be necessary to carry out the functions of the council;
- (3) Ensure that all regularly scheduled meetings of the council are open to the public and that sufficient advance notice of meetings is provided pursuant to the open meeting law;
- (4) Prepare reports and make recommendations, as necessary;
- (5) Perform other activities the council deems necessary to increase the ability of Idahoans with disabilities to live independently;
- (6) Promulgate rules, as may be necessary, in compliance with chapter 52, title 67, Idaho Code.

SECTION 3. That Section 56-1205, Idaho Code, be, and the same is hereby amended to read as follows:

56-1205. ALLOCATION OF FUNDS BY DESIGNATED STATE UNITS. ~~The Idaho division of vocational rehabilitation shall enter into an agreement with the Idaho state independent living council for the~~ shall enter into an agreement with the state agency designated by the state plan for independent living for the receipt, allocation and disbursement of funds to support the council's activities. The funds shall be deposited in the Idaho state independent living council fund created pursuant to section 56-1206, Idaho Code. Such an agreement shall not be subject to the competitive bidding requirements as provided by law, and shall be limited to the amounts appropriated by the legislature or the United States congress.

Approved March 28, 2016

CHAPTER 225
(S.B. No. 1325)

AN ACT

RELATING TO REGULATORY TAKINGS; AMENDING SECTION 67-8003, IDAHO CODE, TO PROVIDE THAT AN OWNER OF PRIVATE PROPERTY MAY SUBMIT A WRITTEN REQUEST FOR A REGULATORY TAKINGS ANALYSIS WITH THE CLERK OR THE AGENCY OR ENTITY UNDERTAKING THE REGULATORY OR ADMINISTRATIVE ACTION AND TO PROVIDE THAT A PRIVATE PROPERTY OWNER IS NOT REQUIRED TO SUBMIT A REQUEST UNDER THE REGULATORY TAKINGS CHAPTER AND THE FAILURE TO SUBMIT A WRITTEN REQUEST SHALL NOT PREVENT OR PROHIBIT THE PRIVATE PROPERTY OWNER FROM SEEKING ANY LEGAL OR EQUITABLE REMEDY INCLUDING, BUT NOT LIMITED TO, THE PAYMENT OF JUST COMPENSATION.

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

SECTION 1. That Section 67-8003, Idaho Code, be, and the same is hereby amended to read as follows:

67-8003. PROTECTION OF PRIVATE PROPERTY. (1) The attorney general shall establish, by October 1, 1994, an orderly, consistent process, including a checklist, that better enables a state agency or local government to evaluate proposed regulatory or administrative actions to assure that such actions do not result in an unconstitutional taking of private property. The attorney general shall review and update the process at least on an annual basis to maintain consistency with changes in law. All state agencies and local governments shall follow the guidelines of the attorney general.

(2) ~~Upon the written request of a~~An owner of real private property that is the subject of such action, ~~such~~ may submit a written request being filed with the clerk or the agency or entity undertaking the regulatory or administrative action. Not more than twenty-eight (28) days after the final decision concerning the matter at issue, a state agency or local governmental entity shall prepare a written taking analysis concerning the action. Any regulatory taking analysis prepared hereto shall comply with the process set forth in this chapter, including use of the checklist developed by the attorney general pursuant to subsection (1) of this section and shall be provided to the ~~real private~~ private property owner no longer than forty-two (42) days after the date of filing the request with the clerk or secretary of the agency whose action is questioned. A regulatory taking analysis prepared pursuant to this section shall be considered public information.

(3) A governmental action is voidable if a written taking analysis is not prepared after a request has been made pursuant to this chapter. A private ~~real~~ private property owner, whose property is the subject of governmental action, affected by a governmental action without the preparation of a requested taking analysis as required by this section may seek judicial determination of the validity of the governmental action by initiating a declaratory judgment action or other appropriate legal procedure. A suit seeking to invalidate a governmental action for noncompliance with subsection (2) of this section must be filed in a district court in the county in which the private property owner's affected ~~real private~~ private property is located. If the affected property is located in more than one (1) county, the private property owner may file suit in any county in which the affected ~~real private~~ private property is located.

(4) During the preparation of the taking analysis, any time limitation relevant to the regulatory or administrative actions shall be tolled. Such tolling shall cease when the taking analysis has been provided to the property owner. Both the request for a taking analysis and the taking analysis

shall be part of the official record regarding the regulatory or administrative action.

(5) A private property owner is not required to submit a request under this chapter. The decision by the private property owner not to submit a request under this chapter shall not prevent or prohibit the private property owner from seeking any legal or equitable remedy including, but not limited to, the payment of just compensation.

Approved March 28, 2016

CHAPTER 226
(H.B. No. 443, As Amended)

AN ACT

RELATING TO MUNICIPAL RECORDS; AMENDING SECTION 50-907, IDAHO CODE, TO PROVIDE THAT HISTORICAL RECORDS MAY NOT BE DESTROYED BUT MAY BE TRANSFERRED TO THE IDAHO STATE HISTORICAL SOCIETY'S PERMANENT RECORDS REPOSITORY UPON RESOLUTION OF THE CITY COUNCIL AND TO PROVIDE WHEN DESTRUCTION IS ALLOWED; AND REPEALING SECTION 50-909, IDAHO CODE, RELATING TO RETENTION OF RECORDS USING PHOTOGRAPHIC AND DIGITAL MEDIA.

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

SECTION 1. That Section 50-907, Idaho Code, be, and the same is hereby amended to read as follows:

50-907. CLASSIFICATION AND RETENTION OF MUNICIPAL RECORDS. (1) "Permanent records" shall consist of:

- (a) Adopted meeting minutes of the city council and city boards and commissions;
- (b) Ordinances and resolutions;
- (c) Building plans and specifications for commercial projects and government buildings;
- (d) Fiscal year-end financial reports;
- (e) Records affecting the title to real property or liens thereon;
- (f) Cemetery records of lot ownership, headstone inscriptions, interment, exhumation and removal records, and cemetery maps, plot plans and surveys;
- (g) Poll books, excluding optional duplicate poll books used to record that the elector has voted, tally books, sample ballots, campaign finance reports, declarations of candidacy, declarations of intent, and notices of election; and
- (h) Other documents or records as may be deemed of permanent nature by the city council.

Permanent records shall be retained by the city in perpetuity, or may be transferred to the Idaho state historical society's permanent records repository upon resolution of the city council.

(2) "Semipermanent records" shall consist of:

- (a) Claims, canceled checks, warrants, duplicate warrants, purchase orders, vouchers, duplicate receipts, utility and other financial records;
- (b) Contracts;
- (c) Building applications for commercial projects and government buildings;
- (d) License applications;
- (e) Departmental reports;
- (f) Bonds and coupons; and

(g) Other documents or records as may be deemed of semipermanent nature by the city council.

Semipermanent records shall be kept for not less than five (5) years after the date of issuance or completion of the matter contained within the record.

(3) "Temporary records" shall consist of:

- (a) Building applications, plans, and specifications for noncommercial and nongovernment projects after the structure or project receives final inspection and approval;
- (b) Cash receipts subject to audit;
- (c) Election ballots and duplicate poll books; and
- (d) Other documents or records as may be deemed of temporary nature by the city council.

Temporary records shall be retained for not less than two (2) years, but in no event shall financial records be destroyed until completion of the city's financial audit as provided in section 67-450B, Idaho Code.

~~(4) Semipermanent and temporary records may only be destroyed by resolution of the city council, and upon the advice of the city attorney. Such disposition shall be under the direction and supervision of the city clerk. The resolution ordering destruction shall list in detail records to be destroyed. Prior to destruction of semipermanent records, the city clerk shall provide written notice, including a detailed list of the semipermanent records proposed for destruction, to the Idaho state historical society thirty (30) days prior to the destruction of any records~~
"Historical records" shall consist of records which, due to age or cultural significance, are themselves artifacts of historical value. Historical records have enduring value based on the administrative, legal, fiscal, evidential or historical information they contain. Historical records shall be retained by the city in perpetuity or may be transferred to the Idaho state historical society's permanent records repository pursuant to subsections 8. and 9. of section 67-4126, Idaho Code, upon resolution of the city council.

~~(5) Prior to January 1, 2007, e~~Each city council shall adopt by resolution a records retention schedule, listing the various types of city records and the retention period for each type of record.

(6) The city may reproduce, retain and manage records in a photographic, digital or other nonpaper medium. The medium in which a document is retained shall accurately reproduce the record 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 record retained by the city 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 record, certified by the city clerk, 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 semipermanent or temporary record is retained in a nonpaper medium as authorized by this section:

(i) The original paper document shall be considered a duplicate of the record, and may be summarily disposed of or returned to the sender; and

(ii) The provisions of this section related to retention and destruction of semipermanent and temporary records shall apply only to the record retained in the nonpaper medium.

(e) Once a permanent record is retained in a nonpaper medium as authorized by this section:

(i) The original paper document shall be considered a copy of the record and may be destroyed after compliance with the provisions of this subparagraph. Prior to destruction of original paper documents, the city clerk shall provide written notice, either by electronic or physical delivery, including a detailed list of the documents proposed for destruction to the Idaho state historical society. The Idaho state historical society shall have thirty (30) days after receipt of the notice to review the list and respond in writing, either by electronic or physical delivery, to the city clerk identifying any documents that will be requested to be transferred from the city to the historical society for retention in the permanent records repository. Any documents that will not be transferred for retention in the permanent records repository may be destroyed. If the city clerk receives no written response within thirty (30) days after the notice was received by the historical society, then the records proposed for destruction may be destroyed.

(ii) The provisions of this section related to retention of permanent records shall only apply to the record retained in the nonpaper medium.

(f) Even if a historic record is retained in a nonpaper medium as authorized by this section, the original paper record shall also be retained by the city in perpetuity, or it may be transferred to the Idaho state historical society's permanent records repository upon resolution of the city council.

(g) Whenever any record is retained in a nonpaper medium, the city clerk shall maintain, throughout the scheduled retention period for such record, suitable equipment for displaying such record at not less than original size and for making copies of the record.

(h) Whenever any record is retained in a nonpaper medium, 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.

(7) Destruction or transfer of records:

(a) Permanent records shall not be destroyed, except for paper originals of permanent records retained in a nonpaper medium as provided in subsection (6) (e) of this section. Permanent records may be transferred to the Idaho state historical society's permanent records repository upon resolution of the city council.

(b) Semipermanent records may be destroyed only by resolution of the city council and upon the advice of the city attorney, except for paper originals of semipermanent records retained in a nonpaper medium as provided in subsection (6) (d) of this section. Such disposition shall be under the direction and supervision of the city clerk. The resolution ordering destruction shall list in detail records to be destroyed.

(c) Temporary records may be destroyed only by resolution of the city council and upon the advice of the city attorney, except for paper originals of temporary records retained in a nonpaper medium as provided in subsection (6) (d) of this section. Such disposition shall be under the direction and supervision of the city clerk. The resolution ordering destruction shall list in detail records to be destroyed.

(d) Historical records may not be destroyed but may be transferred to the Idaho state historical society's permanent records repository upon resolution of the city council.

SECTION 2. That Section 50-909, Idaho Code, be, and the same is hereby repealed.

Approved March 28, 2016

CHAPTER 227
(H.B. No. 503)

AN ACT

RELATING TO TRUST DEEDS; AMENDING SECTION 45-1502, IDAHO CODE, TO REVISE THE DEFINITION OF "TRUSTEE."

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

SECTION 1. That Section 45-1502, Idaho Code, be, and the same is hereby amended to read as follows:

45-1502. DEFINITIONS -- TRUSTEE'S CHARGE. As used in this act:

(1) "Beneficiary" means the person named or otherwise designated in a trust deed as the person for whose benefit a trust deed is given, or his successor in interest, and who shall not be the trustee.

(2) "Grantor" means the person conveying real property by a trust deed as security for the performance of an obligation.

(3) "Trust deed" means a deed executed in conformity with this act and conveying real property to a trustee in trust to secure the performance of an obligation of the grantor or other person named in the deed to a beneficiary.

(4) "Trustee" means a person to whom ~~the legal~~ title to real property is conveyed by trust deed, or his successor in interest for the limited purpose of the power of sale contained in this chapter upon the occurrence of certain contingencies set forth in such trust deed, and the obligation to reconvey the deed of trust pursuant to section 45-1514, Idaho Code. All other incidents of ownership of such real property shall remain with the grantor. For the purpose of section 45-1506(2)(c), Idaho Code, a trustee is not a party requiring notice of sale.

(5) "Real property" means any right, title, interest and claim in and to real property owned by the grantor at the date of execution of the deed of trust or acquired thereafter by said grantor or his successors in interest. Provided, nevertheless, real property as so defined which may be transferred in trust under this act shall be limited to: (a) any real property located within an incorporated city or village at the time of the transfer; (b) any real property not exceeding eighty (80) acres, regardless of its location, provided that such real property is not principally used for the agricultural production of crops, livestock, dairy or aquatic goods; or (c) any real property not exceeding forty (40) acres regardless of its use or location.

(6) The trustee shall be entitled to a reasonable charge for duties or services performed pursuant to the trust deed and this chapter, including compensation for reconveyance services notwithstanding any provision of a deed of trust prohibiting payment of a reconveyance fee by the grantor or beneficiary, or any provision of a deed of trust which limits or otherwise restricts the amount of a reconveyance fee to be charged and collected by the trustee. A trustee shall be entitled to refuse to reconvey a deed of trust until the trustee's reconveyance fees and recording costs for recording the reconveyance instruments are paid in full. The trustee shall not be entitled

to a foreclosure fee in the event of judicial foreclosure or work done prior to the recording of a notice of default. If the default is cured prior to the time of the last newspaper publication of the notice of sale, the trustee shall be paid a reasonable fee.

Approved March 28, 2016

CHAPTER 228

(H.B. No. 513, As Amended, As Amended in the Senate)

AN ACT

RELATING TO THE FEDERAL REAL ID ACT OF 2005; AMENDING SECTION 40-322, IDAHO CODE, TO REVISE PROVISIONS REGARDING A DIRECTIVE ON IMPLEMENTATION OF THE FEDERAL REAL ID ACT OF 2005.

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.~~ The legislature reaffirms this position, while acknowledging that failure to implement certain provisions could adversely affect Idaho's citizens and businesses. Furthermore, it is the intent of the legislature to continue to protect the privacy and security of the state's residents.

(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:~~

(a) Meet the requirements for driver's licenses and identification cards, as described in Title II of the REAL ID act of 2005, as such requirements existed on January 1, 2016;

(b) Not comply with any additional requirements enacted after January 1, 2016, without the express statutory approval of the Idaho state legislature;

(c) Submit compliance extension requests and status reports for the purposes outlined in paragraph (a) of this subsection 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 t~~This act shall prevent be construed as to allow the Idaho transportation board and the Idaho transportation department from taking to take reasonable and necessary 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.

Approved March 28, 2016

CHAPTER 229
(H.B. No. 532)

AN ACT

RELATING TO APPROPRIATIONS AND TRANSFERS OF FUNDS; PROVIDING AN APPROPRIATION AND A TRANSFER OF FUNDS TO THE FIRE SUPPRESSION DEFICIENCY FUND FOR FISCAL YEAR 2016; 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 \$60,000,000 from the General Fund to the Fire Suppression Deficiency Fund as soon as practicable, for the period July 1, 2015, though June 30, 2016. 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. 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 28, 2016

CHAPTER 230
(H.B. No. 546)

AN ACT

APPROPRIATING MONEYS TO THE ENDOWMENT FUND INVESTMENT BOARD FOR FISCAL YEAR 2017; 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, 2016, through June 30, 2017:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Miscellaneous Revenue				
Fund	\$109,300	\$30,200		\$139,500
Endowment Earnings Administrative				
Fund	<u>371,000</u>	<u>163,200</u>	<u>\$1,700</u>	<u>535,900</u>
TOTAL	\$480,300	\$193,400	\$1,700	\$675,400

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, 2016, through June 30, 2017, 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, 2016, through June 30, 2017.

SECTION 4. LEGISLATIVE INTENT. It is the intent of the Legislature that for fiscal year 2017, the Endowment Fund Investment Board transfer \$63,158,400 as follows: \$36,724,800 from the Public School Earnings Reserve Fund to the Public School Income Fund; \$1,347,600 from the Agricultural College Earnings Reserve Fund to the Agricultural College Income Fund; \$5,544,000 from the Charitable Institutions Earnings Reserve Fund to the Charitable Institutions Income Fund; \$4,262,400 from the Normal School Earnings Reserve Fund to the Normal School Income Fund; \$1,965,600 from the Penitentiary Earnings Reserve Fund to the Penitentiary Income Fund; \$4,708,800 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 \$4,042,800 from the University Earnings Reserve Fund to the University Income Fund.

Approved March 28, 2016

CHAPTER 231
(H.B. No. 547)

AN ACT

APPROPRIATING MONEYS TO THE LAVA HOT SPRINGS FOUNDATION FOR FISCAL YEAR 2017; 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, 2016, through June 30, 2017:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Lava Hot Springs Foundation				
Fund	\$1,175,000	\$736,200	\$131,000	\$2,042,200
Lava Hot Springs Capital Improvement				
Fund	<u>0</u>	<u>55,000</u>	<u>240,000</u>	<u>295,000</u>
TOTAL	\$1,175,000	\$791,200	\$371,000	\$2,337,200

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, 2016, through June 30, 2017, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 28, 2016

CHAPTER 232
(H.B. No. 548)

AN ACT

APPROPRIATING MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 2017; 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, 2016, through June 30, 2017:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Indirect Cost Recovery				
Fund		\$100,000		\$100,000
Public Utilities Commission				
Fund	\$4,321,000	1,517,000	\$54,000	5,892,000
Federal Grant				
Fund	<u>255,100</u>	<u>69,200</u>	<u>0</u>	<u>324,300</u>
TOTAL	\$4,576,100	\$1,686,200	\$54,000	\$6,316,300

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, 2016, through June 30, 2017, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 28, 2016

CHAPTER 233
(H.B. No. 549)

AN ACT

APPROPRIATING MONEYS TO THE PUBLIC HEALTH DISTRICTS FOR FISCAL YEAR 2017.

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

SECTION 1. There is hereby appropriated to the Public Health Districts \$9,289,500 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, 2016, through June 30, 2017.

Approved March 28, 2016

CHAPTER 234
(H.B. No. 550)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF DRUG POLICY FOR FISCAL YEAR 2017; 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, 2016, through June 30, 2017:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$266,200	\$54,500		\$320,700
Miscellaneous Revenue				
Fund		3,500		3,500
Federal Grant				
Fund	<u>259,500</u>	<u>364,900</u>	<u>\$3,712,000</u>	<u>4,336,400</u>
TOTAL	\$525,700	\$422,900	\$3,712,000	\$4,660,600

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, 2016, through June 30, 2017, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 28, 2016

CHAPTER 235
(H.B. No. 551)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF ENERGY RESOURCES FOR FISCAL YEAR 2017;
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, 2016, through June 30, 2017:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
Indirect Cost Recovery					
Fund	\$77,800	\$33,300			\$111,100
Renewable Energy Resources					
Fund	163,200	39,300			202,500
Miscellaneous Revenue					
Fund	10,100	10,100			20,200
Petroleum Price Violation					
Fund	273,300	205,700	\$2,900		481,900
Federal Grant					
Fund	<u>253,000</u>	<u>159,000</u>	<u>0</u>	<u>\$30,000</u>	<u>442,000</u>
TOTAL	\$777,400	\$447,400	\$2,900	\$30,000	\$1,257,700

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Office of Energy Resources is authorized no more than eight (8) full-time equivalent positions at any point during the period July 1, 2016, through June 30, 2017, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 28, 2016

CHAPTER 236
(H.B. No. 552)

AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF VETERANS SERVICES FOR FISCAL YEAR 2017; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; APPROPRIATING AND TRANSFERRING MONEYS FROM THE FEDERAL GRANT FUND TO THE RESIDENT TRUST FUND FOR FISCAL YEAR 2016; AND DECLARING AN EMERGENCY.

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, 2016, through June 30, 2017:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$1,007,000			\$49,400	\$1,056,400
Veterans Recognition Income					
Fund				345,000	345,000
Miscellaneous Revenue					
Fund	13,533,300	\$2,106,700	\$684,500		16,324,500
Veterans Home Endowment Income					
Fund	182,200	651,000	147,100	1,500	981,800
Federal Grant					
Fund	<u>7,271,200</u>	<u>7,581,500</u>	<u>1,939,800</u>	<u>0</u>	<u>16,792,500</u>
TOTAL	\$21,993,700	\$10,339,200	\$2,771,400	\$395,900	\$35,500,200

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-three (333) full-time equivalent positions at any point during the period July 1, 2016, through June 30, 2017, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. In addition to the appropriation made in Section 1, Chapter 161, Laws of 2015, and any other appropriation provided for by law, there is hereby appropriated to the Division of Veterans Services and the State Controller shall transfer, as soon as practicable, \$1,500 from the Federal Grant Fund to the Resident Trust Fund, for the period July 1, 2015, through June 30, 2016.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, Section 3 of this act shall be in full force and effect on and after passage and approval.

Approved March 28, 2016